

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Kansas City Power & Light)
Company's Request for Authority to Implement) **Case No. ER-2012-0174**
A General Rate Increase for Electric Service)

In the Matter of KCP&L Greater Missouri Operations)
Company's Request for Authority to Implement) **Case No. ER-2012-0174**
A General Rate Increase for Electric Service)

**PUBLIC COUNSEL'S RESPONSE TO ORDER REGARDING FILINGS
RELATED TO COMPLIANCE TARIFFS AND ORDER SETTING FILING DATE**

COMES NOW the Office of the Public Counsel and for its Response to Order Regarding Filings Related to Compliance Tariffs and Order Setting Filing Date states as follows:

1. The Commission issued its Report and Order in these cases on January 9, 2013. As part of that Report and Order, the Commission ordered that certain filings be made within certain times. Later that same day, it issued an Order Regarding Filings Related to Compliance Tariffs that shortened the time allowed for review of so-called "compliance tariffs." Public Counsel sought reconsideration of the time allowed for review of the tariffs that Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (collectively, "the Companies") were ordered to file, but the Commission declined to allow a reasonable time for tariff review.

2. For the reasons stated in Public Counsel's motion for reconsideration (as well as the reasons stated in the responsive pleadings of the Commission's Staff and the Midwest Energy Consumers Group), the Commission has not allowed sufficient time to analyze and review the tariffs that were filed just before 5:00 P.M. on January 16. Because Public Counsel has not had

adequate time to analyze and review the tariffs, Public Counsel objects to the Commission approving them.

3. In addition to the general objection noted above, Public Counsel also objects to the so-called “substitute sheets” filed after 4:00 P.M. on Friday, January 18. Even though those sheets were filed late in the day on January 18, they bear an issue date of January 16. Nothing in the statutes or the Commission’s regulations allow a utility to circumvent statutory notice and publication requirements by filing tariffs bearing a false issue date. The “substitute” filing is much more involved than correcting a misspelled word, or reformatting margins. In all, **over 40 sheets** are included in the “substitutes.” In fact, several of the so-called “substitute sheets” are entirely **new** sheets not included in the January 16 tariff filing.¹ Even more troubling, several of the so-called “substitute sheets” are substantially – and substantively – different from the sheets for which they allegedly substitute.²

4. Public Counsel opposes the Companies’ request to have all the tariffs approved effective January 26. The Companies’ request implicates the notice and publication requirements of Section 393.140(11), as well as the rehearing requirements of Section 386.500 *et seq.*

5. Section 393.140(11) requires both publication **and** notice for thirty days. It allows the Commission to shorten the required thirty day notice period, but does not allow the Commission to shorten the thirty day publication period. Moreover, even shortening the thirty day notice period requires good cause. The only good cause alleged by the Companies is the Commission’s finding, in its Report and Order, that the Companies’ original rate increase request

¹ See, *e.g.*, First Revised Sheets 49 and 50 for KCPL. They are sheets reserved for future use which were not included in the original filing.

² See, *e.g.*, Original Sheet R-63.01.1 for GMO.

was overstated, but some revenue shortfall existed. The Companies have not demonstrated good cause to shorten the notice period to ten days for the original filing and only eight days for the so-called “substitute sheets.”

6. Sections 386.500 and 386.510 require that an appeal can only be taken from a Commission order if an application is filed before the effective date of that order. Implicit in the Companies’ request for expedited tariff approval is a request that the Commission issue an order on January 23 to be effective on or before Saturday January 26. Such an abbreviated period of time is not consistent with Missouri law.³

WHEREFORE, Public Counsel respectfully requests that the Commission not approve the tariffs filed on January 16, 2013, not approve the so-called “substitute sheets” filed on January 18, and deny the Companies’ request for expedited treatment.

Respectfully submitted,

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³ See Harter v. Mo. PSC, 361 S.W.3d 52, 55 (Mo. Ct. App. 2011); State ex rel. Office of the Pub. Counsel v. PSC, 236 S.W.3d 632 (Mo. 2007)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 22nd day of January 2013.

Missouri Public Service Commission

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