

**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 a General Rate Increase for)
Electric Service)
File No. ER-2016-0285

**SIERRA CLUB RESPONSE TO KANSAS CITY POWER & LIGHT COMPANY’S
APPLICATION FOR REHEARING AND MOTION FOR CLARIFICATION**

COMES NOW the Sierra Club, pursuant to 4 CSR 240-2.080(13), and respectfully submits this Response to Kansas City Power & Light Company’s Application for Rehearing and Motion for Clarification.

INTRODUCTION

On May 3, 2017, the Commission issued its Report and Order in this matter. Among other determinations, the Commission ruled that “KCPL shall implement the inclining block rate structure for residential customers proposed by [the Division of Energy], which would move KCPL towards charging flat volumetric rates for residential general use customers during the winter, and inclining block rates for residential general use customers during the summer.”¹

KCPL filed its Application for Rehearing and Motion for Clarification (“KCPL App.”) on May 12, 2017, seeking rehearing or clarification of four issues. In this response the Sierra Club will address only the Company’s contention that the Commission’s ruling with respect to the Division of Energy’s block rate structure was unlawful and unreasonable (Subpoint B of the Company’s Rehearing Application).

¹ Order at p. 57.

As described below, substantial evidence in the record supports the Commission’s findings that this gradual change in rate design will promote energy efficiency, which is not only consistent with the purpose of the Missouri Energy Efficiency Investment Act but will also reduce costs for customers in the long run. Substantial evidence also supports the Commission’s conclusion that this rate design will have no material impacts on revenue or customer bill volatility.

STANDARD OF REVIEW

The Commission shall grant an application for rehearing if “in its judgment sufficient reason therefore be made to appear.”² An application for rehearing “shall set forth specifically the ground or grounds on which the applicant considers said order or decision to be unlawful, unjust or unreasonable.”³ Decisions of the Commission are reasonable if supported by substantial and competent evidence on the record as a whole. *State ex rel. Alma Tel. Co. v. PSC*, 40 S.W.3d 381, 387 (Mo. App. W.D. 2001). As to factual findings, the Commission must include “a concise statement of the findings on which the agency bases its order.” *Deaconess Manor Association v. PSC*, 994 S.W.2d 602, 612 (Mo. App. 1999).

ARGUMENT

KCPL makes three arguments as to why the Commission’s ruling with respect to residential block rates was unreasonable. First, the Company asserts that the Commission’s finding that the block rates would incentivize efficiency was unsupported by the record. Second, the Company contends that the Commission failed to account for the new rate design’s impact on

² Section 386.500.1, RSMo.

³ Section 386.500.2, RSMo.

volatility and customer bills. Finally, the Company argues that the Commission did not explain why it was ordering the new rate design before the completion of general rate design studies.

A. Energy Efficiency Impacts of Division of Energy’s Block Rate Design

Contrary to KCPL’s assertion that the Commission’s decision to adopt the Division of Energy’s block rate was “based upon unsupported assertions that the new rate structure will improve efficiency or force consumers to conserve electricity,”⁴ the Commission cited to ample evidence in the record in concluding that this rate structure would improve efficiency.⁵ The Commission’s decision was supported by other evidence as well, including the testimony by Sierra Club and Renew Missouri witness Douglas Jester that DE’s proposed rates would reduce annual energy consumption by 0.88%, and by nearly 2% during the Company’s peak month of August.⁶ Moreover, KCPL witness Marisol Miller conceded that “moving from a declining block rate towards a flatter rate or towards an inclining block rate creates a disincentive for customers to consume electricity.”⁷

KCPL’s assertion that the Commission lacked support for its determination that the rate structure would “force consumers to conserve electricity,” is misdirected.⁸ The Commission found that the rate design would “signal to customers that higher use incurs higher costs, encouraging greater energy efficiency.”⁹ The language in the Commission’s order clearly indicates that consumers would be incentivized, rather than forced, to use less electricity. The

⁴ KCPL App. ¶22

⁵ See Order ¶¶ 148-50; 160 (citing Direct Rate Design Testimony of Martin Hyman, and Tr. Vol 12, p. 1252).

⁶ Exhibit 401, Douglas Jester Surrebuttal Testimony at 4:12-16.

⁷ See Tr. pp. 917-918.

⁸ KCPL App. ¶22.

⁹ Order ¶150.

Commission further notes that these incentives would “effectuate the public policy of the state as enacted in the Missouri Energy Efficiency Investment Act” and “reduce[] costs to the utility, and, ultimately, also to its customers.”¹⁰

B. Volatility and Bill Impacts of Division of Energy’s Block Rate Design

The Company also contends that the Commission’s order is arbitrary and capricious because “it does not take into account the impact that IBR will have on both the Company’s revenues and customer bills.”¹¹ Specifically, KCPL notes that “Staff concluded that the overall revenue stability for the customer as well as customer impacts will be a significant issue if IBR is adopted.” *Id.* In fact, the Order directly addressed impacts on revenue stability and customer impacts, finding that

The increased volatility in annual revenues resulting from DE’s proposal will be only about 0.1 percent of KCPL’s Missouri revenue. A change of 0.1 percent in the affected residential class’ pre-increase revenues would only amount to a change of approximately \$0.10 per customer per month.¹²

The Commission made findings that this increased volatility was quite small relative to KCP&L’s standard error in electricity sales,¹³ and that KCP&L had made no effort to study revenue volatility as a result of DE’s proposed block rate design.¹⁴ Thus, in reaching its decision that Division of Energy’s proposed block rate design would not have adverse impacts on revenue volatility or customers, the Commission relied on substantial and competent

¹⁰ Order ¶160-61.

¹¹ KCPL App. ¶23.

¹² Order ¶152 (citing Ex. 401, p. 7 and Tr. Vol. 12, p. 1255).

¹³ Order ¶155.

¹⁴ Order ¶154.

evidence, indeed the *only* quantitative evidence in the record, of revenue volatility impacts and customer impacts.

C. Forthcoming Rate Design Studies

Finally, KCPL contends that the Commission's decision to order the Company to adopt the Division of Energy's block rate proposal was arbitrary, capricious and an abuse of discretion because the Commission's findings of fact do not explain why "it is reasonable and prudent to adopt DE's proposed rate design before the rate design studies are completed."¹⁵ The Commission reviewed the evidence in the record before it, which as described above, amply supported the Commission's decision that the DE's proposed block rate design was just and reasonable. The Company cannot counter evidence in the record by referring to evidence that may be developed and placed before the Commission at some undefined point in the future. As the Commission concluded, "KCPL has the burden of proof to show that its proposed tariffs are just and reasonable, including the reasonableness of its rate design."¹⁶ KCPL did not meet that burden in this case with respect to maintaining its regressive block rate design structure, and the Commission is not required to ignore evidence in front of it simply because the Company may later come forward with additional evidence regarding rate design impacts.

¹⁵ KCP&L App. ¶21.

¹⁶ Order at p. 56.

CONCLUSION

Sierra Club respectfully requests that the Commission deny the Company's application for rehearing as to the Commission's holding on residential block rates.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was mailed, faxed, or emailed to all counsel of record on this 22nd day of May, 2017.

/s/ Casey Roberts

Casey Roberts