

ROBERT L. HAWKINS, JR.
DAVID V.G. BRYDON
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
STEPHEN G. NEWMAN
MARK W. COMLEY
GARY W. DUFFY
VICKI J. GOLDAMMER
PAUL A. BOUDREAU
BARRY V. CUNDIFF
ELLEN M. EDWARDS

LAW OFFICES
HAWKINS, BRYDON & SWEARENGEN
PROFESSIONAL CORPORATION
312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456

AREA CODE 314
TELEPHONE 638-7166
TELECOPIER 634-7431

March 9, 1987

FILED

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PUBLIC SERVICE COMMISSION

Mr. Harvey G. Hubbs, Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: Case Nos. ER-85-265 and AO-87-48 ✓

Dear Mr. Hubbs:


Enclosed for filing with the Commission please find an original and fourteen copies of "Response of Arkansas Power & Light Company to Motion to Suspend Phase-In Tariffs." Copies are being sent to all parties listed on the service list in both dockets.

If there are any questions about this, please let me know.

Sincerely yours,

HAWKINS, BRYDON & SWEARENGEN P.C.

By:


Gary W. Duffy

Enclosures

cc: Mr. Ralph H. Teed, Jr.
All parties on service list
in ER-85-265 and AO-87-48

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PUBLIC SERVICE COMMISSION

H.D.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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.)

Case No. ER-85-265

In the matter of the investigation)
of the revenue effects upon)
Missouri utilities of the Tax)
Reform Act of 1986.)

Case No. AO-87-48/

RESPONSE OF ARKANSAS POWER & LIGHT COMPANY
TO MOTION TO SUSPEND PHASE-IN TARIFFS

Comes now Arkansas Power & Light Company ("AP&L") by and
through its counsel, and for its response to the "Motion to
Suspend Phase-In Tariffs" filed on or about March 5, 1987 by
certain interveners, respectfully states as follows:

1. Doe Run Company, and ASARCO, Inc. (hereinafter "Mining
Intervenors") have submitted a motion in the above-captioned
dockets requesting that the Missouri Public Service Commission
("the Commission") suspend the tariffs which AP&L has previously
filed to implement the second year of a five year phase-in of an
increase granted in Case No. ER-85-265. AP&L has used the same
caption on this responsive pleading as appears on the motion, but
by doing so does not consent that either of the dockets listed

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are the appropriate forum for the motion, or that the motion is otherwise proper.

2. Despite the Commission's order dated February 20, 1987, in the above-captioned dockets informing the Mining Interveners that the record in Case No. ER-85-265 has been closed, an order has been issued and become effective, and the case has been appealed to the Missouri Court of Appeals, Western District, these Interveners continue to unabashedly file motions in that closed docket. The Commission clearly stated in its order that the filing of such a motion was improper.

3. It is improper to file a motion seeking a change in rates in Case No. AO-87-48 since that docket was not created for the purpose of changing rates due to the Tax Reform Act of 1986, merely to investigate the effects. The statutory procedural safeguards incident to changes in rates have not been afforded to parties in Case No. AO-87-48 and the motion of the Mining Interveners cannot lawfully serve to change the basic premise upon which that docket was created.

4. The Mining Interveners are incorrect in asserting that §393.150.2 RSMo 1986 allows suspension of the instant tariff sheets because rather than instituting a new rate, the sheets are in direct response to a previous order of the Commission. The motion is therefore an impermissible and unlawful collateral attack on the Report and Order issued by the Commission in Case No. ER-85-265 on April 24, 1986, effective May 4, 1986. The Commission determined in that order, mimeo p. 58, that "a five

year phase-in period is appropriate, with a 6.64 percent increase in year one and equal percentage increases in years two through five." That portion of the Report and Order is not on appeal and has therefore become final and conclusive. Section 386.550 RSMo 1986 provides that "In all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive." AP&L has filed tariffs which the Commission has indicated comply with the Report and Order. The motion of the Mining Interveners, if granted, would inherently change the five year phase-in previously ordered by the Commission, and thus constitutes an impermissible collateral attack upon it.

5. Contrary to the assertions in the motion, AP&L has only resisted the arguments of various parties that "one-element ratemaking" is a lawful exercise of the powers of the Commission. AP&L denies any and all allegations made in the motion that have not been specifically admitted herein. Its position in Case No. AO-87-48 has been previously made known to the Commission in numerous pleadings.

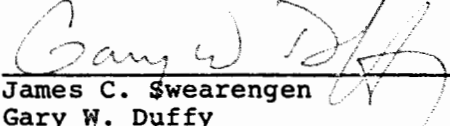
6. The motion is also unlawful in that its stated purpose is to seek a change in electric rates. As such, the motion does not comply with the provisions of §393.260 RSMo 1986 and should be rejected on that basis.

7. The motion should be rejected because the cover letter indicates that only three copies of the motion were submitted to the Commission. That is a violation of 4 CSR 240-2.080(3) and

thus the motion should be rejected for filing pursuant to 4 CSR 240-2.080(8).

WHEREFORE, for the foregoing reasons, the motion should be rejected for filing. If it is subsequently accepted for filing, it should be denied.

Respectfully submitted,

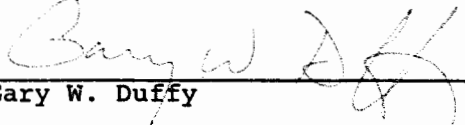


James C. Swarengen
Gary W. Duffy
HAWKINS, BRYDON & SWEARENGEN P.C.
P.O. Box 456
312 East Capitol Avenue
Jefferson City, Missouri 65102
(314) 635-7166

Attorneys for Arkansas Power &
Light Company

Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing document was placed in the United States Mail, first class postage prepaid and properly addressed to all parties on the official service list in the above-referenced dockets this 9th day of March, 1987.



Gary W. Duffy