

**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) Case No. ER-2012-0174

In the Matter of KCP&L Greater Missouri)
Operations Company’s Request for Authority to)
Implement General Rate Increase for Electric)
Service.) Case No. ER-2012-0175

**OPPOSITION TO KCPL AND KCP&L – GMO
MOTION TO APPROVE RECONCILIATION**

COMES NOW Midwest Energy Consumers’ Group (“MECG”) pursuant to the Commission’s February 7, 2013 Order Setting Date for Filing Response, and opposes the February 6, 2013 Motion to Approve Reconciliation (“Motion”) filed by KCPL and KCP&L – GMO (collectively referred to as “KCPL”). In support of said opposition, MECG respectfully states as follows:

1. On February 6, 2013, KCPL and KCP&L- GMO filed their reconciliation pursuant to the provisions of Section 386.420. As set forth in that statute, the detailed reconciliation is to contain “the dollar value and rate or charge impact of each contested issue decided by the commission.” As set forth in Section 386.520, this reconciliation is designed to allow the reviewing court to order the Commission to make rate adjustments in the event that the “Commission order or decision unlawfully or unreasonably decided an issue or issues.”

2. As contained in MECG’s January 25, 2013 Application for Rehearing, MECG asserts that the Commission’s January 23, 2013 *Order Granting Expedited Treatment, Overruling Objections and Approving Compliance Tariffs* was unlawful,

unreasonable, an abuse of discretion and based upon unlawful process and procedure. In the context of that January 23 decision, the Commission wrongfully decided numerous contested issues including MECG's objection to a Staff affidavit, MECG's request for hearing, the lack of evidence supporting the Commission's finding that the tariffs are in compliance with the Commission's Report and Order and KCPL's failure to segregate energy efficiency costs such that they are not charged to opt out customers. MECG intends, much like OPC's pending Application for Writ of Mandamus, to seek judicial review of the Commission's unlawful order. In the event that a reviewing court finds that the decision is unlawful or unreasonable, customers are entitled by statute to "prospective rate adjustments."

3. Despite MECG's careful steps to prepare a detailed Application for Rehearing and preserve its right to seek judicial review, KCPL has attempted to eliminate the possibility of any "prospective rate adjustments" by failing to include quantifications for these errors. As such, KCPL has sought to make any judicial review an academic exercise without any possibility of redress. Given the incomplete nature of KCPL's reconciliation, MECG objects to the reconciliation until such time as it includes quantification of the impact of the Commission's decision on the contested issues contained in the MECG January 25, 2013 Application for Rehearing.

4. In the Motion to Approve Reconciliation prepared and filed by MECG and OPC on February 6, 2013, MECG and OPC have quantified the impact on rates associated with the Commission's unlawful January 23 Order. Undoubtedly, KCPL will oppose that Reconciliation and will again attempt to prevent the possibility of any recourse once MECG prevails on judicial review. KCPL fails, however, to recognize that

it cannot simply short-circuit the possibility of recourse by asking the Commission to not approve the Reconciliation. Section 386.420 clearly provides that “in the event there is any dispute over the value of a particular issue or the correctness of a billing determinant, the commission shall also include in the reconciliation a quantification of the dollar value and rate or charge impact associated with the dispute.” As such, even if the Commission does not include a quantification associated with the unlawful actions documents in the January 25, 2013 Application for Rehearing, it must include the fact that there is a dispute as well as the quantification of that dispute.

WHEREFORE, MECG respectfully requests that the Commission reject KCPL’s Reconciliation until such time as KCPL has provided an accurate quantification of the impact associated with the Commission’s unlawful actions as detailed in the MECG January 25, 2013 Application for Rehearing..

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David L. Woodsmall". The signature is stylized and cursive.

David L. Woodsmall (MBE #40747)
807 Winston Court
Jefferson City, MO 65101
(573) 797-0005 voice
(573) 635-7523 facsimile
E-mail:
david.woodsmall@woodsmalllaw.com

ATTORNEY FOR THE MIDWEST
ENERGY CONSUMERS’ GROUP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

A handwritten signature in black ink, appearing to read "David L. Woodsmall". The signature is written in a cursive, somewhat stylized font.

David L. Woodsmall

Dated: February 13, 2013