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**

RESPONSE OF RENEW MISSOURI TO KCPL&L'S APPLICATION FOR REHEARING AND MOTION FOR CLARIFICATION

COMES NOW Renew Missouri Advocates ("Renew Missouri"), pursuant to rule 4 CSR 240-2.080(13), and respectfully submits the following Response to the "Application for Rehearing and Motion for Clarification" ("Rehearing Application") of Kansas City Power & Light Company ("KCPL").

INTRODUCTION

1. On July 1, 2016 KCPL filed its application in the above-styled case. On May 3, 2017, the Commission issued its Report and Order (Order). As part of that Order, the Commission ruled "KCPL shall implement the inclining block rate structure for residential customers proposed by DE, 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."

2. On May 12, 2017 KCPL filed its Rehearing Application, in which it outlined four issues on which it believes a rehearing is justified as well as one request for clarification. Renew Missouri wishes to respond only to sub point B of the Rehearing Application where KCPL alleges that the rate structure proposed by the Division of Energy and ordered by the Commission is "unlawful and unreasonable."

STANDARD FOR REVIEW

Section 386.500.1, RSMo, states that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefore be made to appear." Section 386.500.2, RSMo further states that: "[s]uch application shall set forth specifically the ground or grounds on which the applicant considers said order or decision to be unlawful, unjust or unreasonable."

The standard for granting a rehearing under Commission rule 4 CSR 240-2.160(1) and Section 386.500.1 RSMo is well established and generally requires something more than a mere rehashing of arguments previously made. See *In the matter of Tariff No. 3 of Time Warner Cable Information Services,* Case LT-2006-0162 MO PSC September 7 2006 ("The Commission finds that Time Warner Cable largely rehashes its previous arguments, and has failed to establish sufficient reason to grant its application.")

ARGUMENT

In an effort for brevity Renew Missouri will not re-hash the legal standards articulated by KCPL. Suffice it to say that the Commission's rule at 4 CSR 240-2.160 and Section 386.500, RSMo. grant the Commission wide discretion. In its Rehearing Application, KCPL fails to progress beyond mere rehashing and falls well short of establishing that the Commission's order was unlawful, unjust, or unreasonable.

In sub point B of the Rehearing Application, KCPL makes three main arguments as to why the Commission's order adopting DE's rate structure should be reconsidered: 1) KCPL has numerous rate design studies underway and no changes should be made until those studies are completed; 2) the Commission ordered the new rate based on unsupported assertions that it will lead to energy conservation and improvements in efficiency; and 3) the order does not take into account the impacts on company revenue and customer bills.

A. KCPL should not be permitted to bind the Commission's hands due to incomplete studies.

KCPL argues that it is "inappropriate" for the Commission to make rate design decisions before its rate design studies are completed. However KCPL points to no legal standard that would allow a subjective interpretation of "appropriateness" to influence Missouri ratemaking. Rather the standard, as KCPL rightly points out is "whether [the Commission's decision] was supported by competent and substantial evidence upon the whole record." KCPL mistakes evidence with which it disagrees with evidence that is incompetent or insubstantial. In this case, the Commission had ample evidence upon which to approve DE's proposed IBR rate structure, including oral testimony at hearing and pre-filed written testimony accompanied by numerous attachments.

The possibility that new rate studies may later inform a superior rate structure does not negate the evidence in the record or the reasonableness of the Commission's order. That is not to say that KCPL's ongoing rate design studies are without value, merit or use. Renew Missouri looks forward to reading the results of those studies as they become publicly available and using them to further refine KCPL's rate design in a subsequent rate case. But in this case, the Commission chose the rate design it believed to be supported by the record. KCPL cannot claim that studies yet-to-be concluded remove the need for a better rate design at the present moment.

Here KCPL seems to create a new standard for the Commission's authority, where the Commission must explain not only why it chose one piece of evidence over another, but also why it chose one piece of evidence over one that does not yet exist. KCPL chose to file its rate case before its rate design studies were completed. Therefore KCPL chose to accept the results of any rate design decisions made without the benefit of its rate design studies. To believe

otherwise would empower utilities to tie the hands of regulators by perpetually conducting studies in areas on which utilities do not wish to be regulated.

In a future rate proceeding, KCPL may present the results of its pending studies and request that another residential rate design be ordered. But the existence of pending studies cannot be used in this case as grounds for finding that the Commission's order was unlawful, unjust and unreasonable.

B. *The approved rate design is well supported by evidence that it will lead to increased efficiency and conservation.*

On pg. 8 of its Rehearing Application, KCPL argues that its current rate design – developed over many years – shouldn't be changed based on "unsupported assertions" that a new rate will lead to greater efficiency and conservation. In fact, DE's rate structure which the Commission approved in its Order is based on very well-supported evidence that it will lead to greater energy efficiency and conservation on the part of residential customers.

DE's rate is proposed in the Direct Testimony of Martin R. Hyman.[1] That rate is further supported by Martin Hyman's Rebuttal and Surrebuttal Testimony,[2] along with the rate design Direct and Surrebuttal Testimony of Douglas B. Jester[3] on behalf of the Sierra Club and Renew Missouri. Mr. Jester's Surrebuttal Testimony is particularly instructive; on pg. 4, Mr. Jester estimates that the rate design proposed by DE will reduce annual energy consumption for general residential customers by 0.88%, and by 1.98% in August. He then proceeds to explain how he arrived at these estimates. KCPL did not significantly challenge or undercut these estimates,

[1] Exhibit 800
[2] Exhibits 801 and 802, respectively.
[3] Exhibits 400 and 401, respectively.

either in testimony or during cross-examination. KCPL has also not challenged Mr. Jester's qualifications as an expert.

There is other evidence on the record that informs the energy and demand reduction effects of an inclining block rate structure. Mr. Jester's Direct Testimony was accompanied by a document entitled "The Residential Energy Savings Effect of a 2-Step Inclining Block Electricity Rate" by Mark Rebman." This document examines the price elasticity of demand in connection with an inclining block rate structure. Furthermore, a document was entered into the record in which KCPL acknowledges that it's own studies show that both energy and demand savings would result from an inclining block rate structure.[4]

KCPL's claim (that the efficiency and conservation effects of DE's rate are unsupported) is itself unsupported. The Commission should reject this claim as a rationale for granting KCPL's Rehearing Application.

C. *The Order properly takes into account revenue and bill impacts*.

KCPL claims that the Commission did not take into account the effect of IBR on revenues and customer bills, and thus the Commission's Order is arbitrary and capricious and an abuse of discretion. In fact, the rate's impact on revenues and bills was extensively discussed both at hearing and in testimony, and again in post-hearing briefing.

The residential rate structure proposed by DE was specifically designed to limit bill impacts to customers to no more than 5% at the 95th percentile of usage.[5] DE and Renew Missouri gave much attention to the gradualism with which the rate was crafted. Furthermore, both Staff and KCPL raised issues of the effect on revenues and customer bills during the case.

[4] Exhibit 402, offered and admitted on February 22, 2017, Transcript Vol. 11, pg. 932.
[5] Direct Testimony of Martin R. Hyman, Exhibit 800, pg. 21, lines 8-11.

These issues were given opportunity to be fully aired and considered in testimony, at hearing, and in post-hearing briefs.

Here, KCPL is simply rehashing a point of contention that the Commission has already decided. Thus, it should not be used as a basis upon which to order a rehearing of this issue.

CONCLUSION

WHEREFORE, for these reasons Renew Missouri respectfully requests that KCP&L's Application for Rehearing and Motion for Clarification be denied.

Respectfully Submitted,

/s/ Andrew J. Linhares
Andrew J. Linhares, # 63973
1200 Rogers St, Suite B
Columbia, MO 65201
T: (314) 471-9973
F: (314) 558-8450
Andrew@renewmo.org

ATTORNEY FOR RENEW MISSOURI

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/ Andrew J. Linhares
Andrew J. Linhares