



KURT U. SCHAEFER
(573) 761-5004
EMAIL: SCHAEFKU@ATHROPGAGE.COM

326 E. CAPITOL AVENUE
JEFFERSON CITY, MISSOURI 65101-3004
573-893-4336, FAX 573-893-5398

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FILED

AUG 04 1999

VIA HAND DELIVERY

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Room 530
Jefferson City Missouri 65101

Missouri Public
Service Commission

Re: GST Steel Company v. Kansas City Power & Light Company
Case No. EC-99-553

Dear Secretary Roberts:

Enclosed for filing in the above-referenced case, please find:

- 1) An original and fourteen (14) copies of the **public version** of GST Steel Company's Reply to KCPL's Response to GST's Application for Reconsideration and Clarification of Order Denying Interim Relief and Expedited Hearing; and
- 2) Eight (8) separate sealed envelopes containing the **Highly Confidential version** of GST Steel Company's Reply to KCPL's Response to GST's Application for Reconsideration and Clarification of Order Denying Interim Relief and Expedited Hearing.

The above are being filed pursuant to and under the Protective Order previously granted by the Commission.

Thank you in advance for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By:

Kurt U. Schaefer

KUS/jf
Enclosure
cc: To all parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILE

AUG 04 1999

GST Steel Company,

Complainant

v.

Kansas City Power & Light Company,

Respondent.

Missouri Public
Service Commission

Case No. EC-99-553

**GST STEEL COMPANY'S REPLY
TO KCPL'S RESPONSE TO GST'S APPLICATION FOR RECONSIDERATION
AND CLARIFICATION OF ORDER DENYING INTERIM RELIEF
AND EXPEDITED HEARING**

GST Steel Company ("GST") hereby submits this reply to Kansas City Power & Light Company's ("KCPL") Response to GST's Application for Reconsideration and Clarification of Order denying interim relief and expedited hearing. In its Response, KCPL asserts that GST's application is untimely and should be summarily denied. This Reply addresses only that aspect of the company's arguments.

I. BACKGROUND

1. GST moved for interim relief and an expedited hearing on June 18, 1999. Because GST is experiencing increased hourly prices for electricity caused by the higher cost of energy purchased by KCPL to replace Hawthorn 5's generation, GST sought necessary equitable relief to hold it harmless while the issues in this docket are litigated. KCPL and the Staff of the Missouri

Public Service Commission (Staff) responded to GST's Motion on June 28, 1999. The Commission denied GST's Motion for interim relief and expedited hearing on July 9, 1999. The Order stated an effective date of July 20, 1999. GST filed an Application for Reconsideration and Clarification of Order denying interim relief and expedited hearing (Application) on July 21, 1999. KCPL filed its Reply to GST's Application on July 29, 1999. GST's Application is still pending.

II. DISCUSSION

2. The intent of GST's July 21, 1999 application was to ask the Commission to reassess the need for equitable relief in these circumstances. Pursuant to 4 CSR 240-2.050(4), the Commission has discretion to consider GST's Application:

When an act is required or allowed to be done at or within a specific time, with the exception of the operation of law date of suspended tariffs, the Commission, at its discretion, may . . . [p]ermit the act to be done after the expiration of the specified period, except after the effective date of a tariff, where the failure to act was the result of excusable neglect.

In this instance, the filing of the application inadvertently slipped by one day due to communication delays associated with attorney's summer travel schedules. No party was adversely affected by the filing of the application on July 21, 1999, and KCPL does not make such a claim in its Response. GST's Application asks the Commission to reconsider its Order denying interim relief and an expedited hearing on limited issues. The Application does not address suspended tariffs, which are specifically excepted in 4 CSR 240-2.050(4). Nor is it a petition for review by the circuit court or a prelude to such a petition.

3. Further, the filing of GST's application on July 21, 1999 does not affect the procedural schedule in this docket. Pursuant to the Commission's Order Regarding GST's First Motion to Compel Discovery and Amending the Procedural Schedule issued July 29, 1999 (hereinafter "Commission's July 29, 1999 Order"), the Commission determined that KCPL's intransigence in refusing to respond to discovery in this docket "seriously compromised the procedural schedule." The Commission thereupon reset the due date for GST's direct testimony from August 12, 1999 to September 15, 1999. Commission's July 29, 1999 Order at 8. Due to the revised procedural schedule, the Commission's review of GST's Application should in no way delay this proceeding.

4. Commission consideration of GST's Application will promote the interest of fairness in this proceeding. The Commission noted in its July 29, 1999 Order that KCPL's reply to GST's motion to compel was untimely, but the Commission decided to "consider KCPL's untimely reply in the interest of allowing the parties a full opportunity to present their positions." Commission's July 29, 1999 Order at 6. We ask that the same Commission discretion apply to GST's Application and that GST should be allowed full opportunity to present its position and the important issues at stake in this proceeding.

5. GST's need for equitable interim relief and an expedited hearing on limited issues related to the disposition of insurance proceeds has been graphically demonstrated by recent severe spot power market price fluctuations and their effect on KCPL's cost of replacing Hawthorn generation during the week of July 26, 1999. As stated in previous filings before this Commission, GST purchases power in accordance with a special contract based on **

.** With the loss of Hawthorn 5, KCPL has been meeting its load requirement through short term purchases.


6. KCPL announced publicly that it set an all-time record peak demand of 3,253 MW on July 29, 1999 surpassing the previous all-time record of 3,227 MW set just three days before on July 26, 1999. See KCPL News Release, July 29, 1999. Electricity prices in the Midwest during this time period ranged from \$3,500/MWh to \$7,000/MWh. See *Midwest Utilities Decry Last Week's Hourly Price Spikes*, ELECTRIC POWER DAILY, August 3, 1999, at 1. This recent soaring price of electricity and its affect on KCPL's ** further emphasizes the importance of the issues presented by GST in its Application and GST's need for interim relief and an expedited hearing.

7. GST asks that the Commission excuse the one day delay in filing its application, and given the lack of harm to KCPL as well as the importance of the issues presented, we ask that the Commission exercise its discretion to review GST's Application.

WHEREFORE, GST requests that this Commission deny the relief requested in KCPL's Response to Complainant GST's Application and exercise its discretion to review the issues

presented in GST's Application for Reconsideration and Clarification of Order denying interim relief and expedited hearing.

Respectfully submitted,



Paul S. DeFord Mo. #29509
Kurt U. Schaefer Mo. #45829
LATHROP & GAGE, L.C.
2345 Grand Boulevard
Suite 2800
Kansas City, Missouri 64108
Telephone: 816-292-2000
Facsimile: 816-292-2001

Attorneys for GST Steel Company

Dated: August 4, 1999

James W. Brew
Christopher C. O'Hara
BRICKFIELD, BURCHETTE & RITTS, P.C.
1025 Thomas Jefferson Street, NW
8th Floor, West Tower
Washington, D.C. 20007
Phone: (202) 342-0800
Facsimile: (202) 342-0807

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, postage prepaid, to all counsel of record as shown on the following service list this 4th day of August, 1999.

Gerald A. Reynolds
KCP&L
1201 Walnut Street
Kansas City, MO 64106

Steven Dottheim
Chief Deputy General Counsel
MO Public Service Commission Staff
P.O. Box 360
Jefferson City, MO 65102

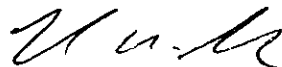
James M. Fischer
James M. Fischer, P.C.
101 West McCarty, Suite 215
Jefferson City, MO 65101

Lera Shemwell
Assistant General Counsel
MO Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

John B. Coffman
Deputy Public Counsel
Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Karl Zobrist
Blackwell Sanders Peper & Martin LLP
P.O. Box 419777
Kansas City, MO 64141-6777



Attorney