

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

**GS Technologies Operating Co. Inc.
d/b/a GST Steel Company,**

Complainant

Kansas City Power & Light Company,

Respondent

Case No. EC-99-553

**REPLY BRIEF
OF
GST STEEL COMPANY**

FILED

MAY 24 2000

**Missouri Public
Service Commission**

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INTRODUCTION

GST Steel Company ("GST") hereby submits its Reply Brief in response to arguments made by Kansas City Power & Light Company ("KCPL") and Staff in Initial Briefs (hereinafter referred to as "I.B.") filed on May 12, 2000.

A. Have the charges imposed under the GST/KCPL Special Contract been "just and reasonable" over the period of the contract?

KCPL asserts that its charges to GST under the Special Contract should be considered "just and reasonable" as long as those charges remain below the utility's otherwise applicable tariffed rates (KCPL I.B. at 6). There is no language in the Commission's October 1994 approval Order allowing KCPL to charge "up to" the level of its tariffed rates under the Contract. There is, in fact, no basis for the standard that KCPL has attempted to unilaterally establish.

Missouri law prohibits the recovery of imprudently incurred costs, and the Commission has unfailingly applied this mandate through the years (*See* GST I.B. at 9-11). From the time the Commission approved the Special Contract between GST and KCPL on October 26, 1994, KCPL had an obligation to include only reasonably incurred costs in the rates charged to GST. Thus, Staff correctly agreed with GST that if the Commission finds that KCPL has acted imprudently with respect to the Hawthorn boiler explosion, "the inclusion of the cost of replacement power in a rate case, or in charges to GST, would not be just and reasonable. . . ." (Staff I.B. at 4).

Contrary to KCPL's claims, the rate levels permitted under KCPL's tariffed rates do not provide a proper measure of whether the charges imposed by KCPL under the Special Contract have been just and reasonable. KCPL's tariffed rates do not address the reasonableness of costs utilized by KCPL in calculating the incremental cost component under the Special Contract. Further, GST's ability essentially to terminate the Special Contract by opting out of the approved

pricing formula for a tariffed rate is not an answer to whether KCPL has rendered just and reasonable charges pursuant to that pricing formula (GST I.B. at 6). GST does not want to opt out of the contract; it wants KCPL to implement the contract in a just and reasonable manner.

As Staff explained in its 1994 memorandum recommending approval of the Special Contract, this contract was necessary because a steel mill could not be economically viable if electricity were priced at the prevailing tariff rate (Exh. 21, p. 2). GST assumed certain risks as part of the pricing formula in the contract, but it did not assume the risk of KCPL imprudence (Tr. Vol. 8, p. 401 (Proctor)). As Staff witness Proctor observed, GST reasonably expected prices based on a reasonable and prudently managed utility (Tr. Vol. 8, p. 401). Moreover, the Commission has repeatedly confirmed that the reasonableness of KCPL's performance is directly relevant to GST's claims.¹

GST has demonstrated by clear, convincing, competent and substantial evidence that KCPL has included costs in its calculation of incremental cost that are a result of its imprudent management of its generation, transmission, and distribution facilities. Moreover, with respect to the February 1999 Hawthorn boiler explosion, the record leaves no doubt that KCPL imprudence caused the explosion, and that the substantially higher cost of replacement energy has resulted in material overcharges to GST. Those charges are unjust and unreasonable.

B. Has KCPL properly accounted for the insurance proceeds that it has received as result of the Hawthorn incident?

GST no longer challenges KCPL's accounting of the insurance proceeds (Staff I.B. at 6).

¹ Order Regarding GST Steel Company's First Motion to Compel Discovery and Amending Procedural Schedule, dated July 29, 1999; "KCPL can hardly argue that the Hawthorn incident is not also directly relevant to the issue of KCPL's charges to GST" (Order at p. 7). Also, see Orders dated August 19, 1999, and November 16, 1999.

C. Does the Commission have the authority to order KCPL to pay GST insurance proceeds received by KCPL as a result of the explosion of the Hawthorn plant? If so, is it reasonable and appropriate to do so?

GST has not argued that the Commission should order KCPL to pay directly to GST insurance proceeds that KCPL received as a result of the Hawthorn explosion (Staff I.B. at 6-7). GST makes a substantial contribution to KCPL's fixed and common costs (Exh. 2, pp. 3-6). As explained in Mr. Carver's testimony, the insurance proceeds are an offset to KCPL's replacement energy costs that should have been applied to mitigate the increased energy charges to GST following the Hawthorn explosion (Exh. 1, p. 17).

D. Does the Commission have the authority to order KCPL to recalculate GST's bills under the contract? If so, should those bills be recalculated (i.e., by using KCPL's incremental costs as if Hawthorn continued to operate)? Is it reasonable and appropriate to do so?

Staff agreed with GST that the Commission has authority to require KCPL to recalculate GST's bills to eliminate overcharges associated with imprudently incurred costs. None of GST's requests for relief requires the Commission to grant equitable relief. GST does not ask the Commission to award money damages. The relief GST seeks does not reform or in any way modify that agreement or the respective responsibilities of GST or KCPL.

As explained in GST's Initial Brief, KCPL has always been prohibited by law from including unjust and unreasonable costs in its charges to GST. KCPL does not have the prerogative of including imprudent costs in charges to GST. In this proceeding, the Commission properly has exercised its continuing jurisdiction over the rates charged under the Special Contract. As the Staff has noted, if KCPL has acted imprudently and has reflected imprudently incurred costs in the charges to GST, those charges are not just and reasonable even if KCPL followed the pricing formula to the letter in developing those charges (Staff I.B. at 4; Staff Position Statement at p. 2).

The authority to investigate a customer's claim that it has been overcharged emanates from the Commission's core rate setting and supervisory powers. A customer is entitled to a recalculation and adjustment of its billing where an overcharge has occurred. See 4 CSR 240-13.025(1)(A). The Courts have recognized the primary and exclusive jurisdiction of the Commission to address those matters, which it has asserted on a variety of occasions. *Inter-City Beverage Co., Inc. v. Kansas City Power & Light Co.*, 889 S.W.2d 875 (Mo. App. W.D. 1994); *DeMaranville v. Fee Fee Trunk Sewer, Inc.*, 573 S.W.2d 676 (Mo. App. 1978); *Paige v. Kansas City Power & Light Co.*, 27 Mo. P.S.C. (N.S.) 363 (1985); (see Staff I.B. at 5).

KCPL does not dispute the Commission's authority to investigate overcharges. Instead, it refers to inapposite cases in which parties sought remedies the Commission could not address. Looking at the cases cited by KCPL, Straube involved an attempted challenge to a fixed gas rate schedule by customers arguing undue enrichment of the utility for failing to pass FERC-ordered refunds through to retail customers.² Rolla involved claims that a power contract was void because it had not been properly executed and was based on misrepresentation in the inducement.³ Katz concerned the interpretation of a contract for rate discounts if a customer converted from direct to alternating current service.⁴ Wilshire Construction concerned disputes over contracts for the installation of underground wiring by builders, not electricity consumers.⁵ None pertain to overcharges relating to costs imprudently incurred by the utility and improperly charged to the customer.

² Straube v. Bowling Green Gas Co., 227 S.W.2d 666, 668 (Mo. 1950).

³ Board of Public Works of Rolla, Missouri v. Sho-Me Power Corp., 362 Mo. 730, 244 S.W.2d 55 (1951).

⁴ Katz Drug Co. v. KCPL, 303 S.W.2d, (Mo. App. 1957).

⁵ Wilshire Const. Co. v. Union Elec. Co., 463 S.W.2d 903, 905 (Mo. 1971).

In this case, none of the parties have suggested that the Special Contract is unjust and unreasonable or that the Commission should take any steps to abrogate the contract. To the contrary, GST and KCPL both indicate that the contract remains just and reasonable, and Staff stands behind the approval recommendation it filed in 1994 as well (Tr. Vol. 8, p. 372). Also, the Public Counsel participated in this proceeding, and it voiced no concerns of any kind regarding this contract.

Staff recognized that the Commission may find that it is reasonable and appropriate to require KCPL to recalculate GST's bills (*see* Staff I.B. at 8). GST witness Mr. Brian Smith testified that, utilizing very conservative assumptions, KCPL's overcharges to GST through April 2000 were approximately \$4.5 million (GST PF 196-197). Neither KCPL nor Staff challenged Mr. Smith's calculation and it stands as a reasonable and appropriate finding on the record. Mr. Smith explained throughout his testimony that he was presenting estimates of KCPL overcharges of GST (Exh. 3, pp. 2-5, 7, 10). In its Brief, KCPL attempts to draw an unwarranted legal conclusion from one reference by Mr. Smith to the calculated overcharges as "damages" (KCPL I.B. at 13). It is obvious from Mr. Smith's testimony that he quantified the extent of the overcharges, but did not offer either legal opinion or policy testimony. The quantification of overcharges GST seeks does not constitute a request for a damage award, and the Commission possesses primary and exclusive jurisdiction to investigate and act on these matters.

E. Has KCPL operated and maintained its generation units in a reasonable and prudent manner?

KCPL asserts that it operated and maintained its generation units in a reasonable and prudent manner and that GST has "failed to provide the Commission with 'basic facts' needed to judge the validity of its claims" (KCPL I.B. at 22). GST has provided overwhelming evidence, principally in the form of contemporaneous documents penned by KCPL employees or created in

the normal course of KCPL's business, that KCPL acted in an unreasonable, imprudent and unconscionably unsafe manner with respect to the Hawthorn explosion, and that data assembled by KCPL's own consultant demonstrates the seriously declining performance of the utility's generating units in recent years.

1. Hawthorn Boiler Explosion

KCPL has no facts to offer, after more than a year of its own investigation, to show that it acted in a reasonable and prudent manner, or to rebut the documentary evidence GST has submitted. The logical implications of KCPL's determined silence are that the facts in its possession paint an even bleaker picture of its imprudence. KCPL's defense consists of a feeble attack on GST witness Ward's credentials and the length of time he spent in KCPL's Hawthorn "document room." As noted below, Mr. Ward is highly qualified to address the question of how reasonable and prudent management should have acted under the circumstances that existed at the time. His testimony focuses on the critical facts and factors KCPL should have addressed. Each of his points is documented using KCPL sources. Significantly, with one tangential exception, noted below, KCPL failed to address the facts presented in the record. The chain of events presented in Mr. Ward's testimony and described in detail in KCPL's contemporaneous documents is in all material respects unchallenged.

Finally, KCPL clings to a statement by Staff witness Lissik that she still had questions concerning the incident. KCPL's reliance on Ms. Lissik's uncertainty is a desperate effort to use Staff as a shield, and it is clear enough that Staff does not intend to be used in that fashion. Staff has stated that it took no position at all regarding the prudence or imprudence of KCPL's Hawthorn-related actions (Staff I.B. at 9). Ms. Lissik clearly stated as well that she had no position on this issue (Tr. Vol. 7, p. 308). Ms. Lissik noted only that other Staff members were

assigned to the separate Hawthorn explosion docket, Case No. ES-99-581, and that Staff had no opinion because it had not completed its review in that docket (Exh. 9, p.12).

Moreover, Ms. Lissik did not disagree with any of the facts offered by GST concerning the chain of events on February 16 and 17 at Hawthorn. She did not find any of the material facts contained in Mr. Ward's testimony to be inaccurate or incomplete (Tr. Vol. 7, pp. 341-360). She further testified that it would be unreasonable for KCPL to create an unsafe condition at Hawthorn (Tr. Vol. 7, p. 342). She also testified that the extent of damage to electrical components and circuit boards caused by water can be unpredictable, but that various types of failure are likely and should have been expected (Tr. Vol. 7, p. 348). In short, Staff had no different facts to offer, and it did not disagree with any facts that were in the record.

a) GST's Investigation Produced a Complete and Documented Evaluation of KCPL's Imprudence

KCPL counted the hours Mr. Ward spent at the Hawthorn site to support its claim that GST's investigation was "inadequate" (KCPL I.B. at 16). As KCPL knows, it made copies of all the documents Mr. Ward requested from those site visits. Hence, the time Mr. Ward spent in the document room is a silly and meaningless criticism of Mr. Ward's testimony and the findings he presented. Mr. Ward had access to, according to KCPL, "tens of thousands of documents" provided to GST during the course of discovery.⁶

As to substance, KCPL complains that Mr. Ward relied upon contemporaneous statements of KCPL employees without interviewing those KCPL employees (KCPL I.B. at 11-19) (*see* Exh. 5, p. 17; Exh. 6, apps. 5-9, 11, 14-15, 18-21). Obviously, if KCPL considered any of those statements, or Mr. Ward's use of those statements, to be inaccurate, the company could have produced the employee that made it. KCPL made no effort to do so.

KCPL's Brief points to only one item in the entire sequence of events that occurred on February 16 and 17 that it even purports to challenge. That is KCPL control operator McLin's report that an operating waste water sump pump caused the flood of water and raw sewage on the afternoon of February 16 (Exh. 5, app. 9), and Mr. Ward's reliance on that statement. Rather than provide Mr. McLin as a witness to confirm or clarify his statement, KCPL instead sought to insinuate that Mr. McLin's statement was inaccurate because a description of the sanitary sewer system indicated that a "check valve" should have been installed to prevent backflow from permitting such a flood from occurring in the control room. Further, the company relies in its brief on a document that was not received into evidence. Mr. Ward explained that no experienced plant manager would rely on a check valve to prevent a backflow situation (Tr. Vol. 5, p. 273). Moreover, regardless of the point KCPL thinks it may have been driving at, KCPL does not dispute that raw sewage was pumped while the clogged sewage pipe was under repair (Tr. Vol. 5, p. 285), that the reverse backflow flooded the control room whether check valves were present or not, and that the water damaged Hawthorn's controls and Burner Management System in exactly the manner described in Mr. Ward's testimony and the appended statements of KCPL's employees.

KCPL again seeks to insinuate, without offering any KCPL manager to clarify, that a subcontractor might have caused the wastewater flood (KCPL I.B. at 20). Since KCPL controlled the operation of all pumps and motors at Hawthorn (Tr. Vol. 5, p. 264), all subcontractors work at KCPL's direction, and only authorized KCPL employees may place holds on equipment, KCPL remains accountable for the flood in any event.

⁶ Letter dated February 22, 2000 from Jerry Reynolds to James Brew (attached).

KCPL next claims that Mr. Ward misunderstood the KCPL Safety Manual and its hold procedures and the reasons why KCPL did not place holds on the wastewater sumps or the gas lines to the Hawthorn boiler (KCPL I.B. at 21). KCPL, however, offered no witness to challenge Mr. Ward's assessment that prudent practice required a hold on wastewater sumps while a clogged sewer line was under repair (Tr. Vol. 5, p. 269). Neither does KCPL challenge the evidence showing that KCPL actually used its "red hold" procedure to tag the main gas valve closed (Tr. 284-285) or that the company failed to reestablish this hold when water damaged the BMS system (Exh. 6, p. 10, app. 13). KCPL claims that Mr. Ward did not know if work was being performed on the sump pump or gas lines on February 16 and 17, in an apparent attempt to imply that equipment holds were unnecessary (See KCPL I.B. at 21). Mr. Ward explained, however, that KCPL employees were working on repairs to the BMS system throughout the afternoon and evening of February 16 and on February 17 up to the point of the explosion.

A. (By Mr. Ward): You take out whatever you need to do to establish safe working conditions.

Q. (By Mr. Fischer): Even when no one is working on those systems?

A. (By Mr. Ward): But someone was working on the fuel gas system and the BMS system.

Q. (By Mr. Fischer): You were told that someone was working on the gas lines?

A. (By Mr. Ward): On the system that controls valves in the gas line.

Q. (By Mr. Fischer): And you were talking there about the BMS system, not the gas lines?

A. (By Mr. Ward): The BMS controls the valves in the fuel gas system.

(Tr. Vol. 5, p. 274-276). Mr. Ward similarly explained that prudent practice required holds on the wastewater sumps while the sewer clog was being repaired and plumbing fixtures were being removed (Tr. Vol. 5, p. 271). If KCPL operators in fact apply the hold procedures as literally

and irrationally as the company's lawyers intimate, there should be an immediate investigation into KCPL's operating practices. As Mr. Ward explained, failure to employ holds for necessary equipment protection as well as for worker safety would be imprudent on its face (Tr. Vol. 5, p. 283).

Finally, KCPL complains that Mr. Ward does not claim to be an expert in power plant explosions. (KCPL I.B. at 18). He is not. He is an expert with 35 years of experience in power generation matters including operating and managing power stations without blowing them up. He has direct experience with the engineering, construction, operations, maintenance and management of every major type of power plant, including management of day-to-day operations (Exh. 5, p. 2; App. 1; Tr. Vol. 5, pp. 280-281). Mr. Ward's expert testimony concerns the circumstances that existed at Hawthorn and the measures that reasonable and prudent managers and plant operators should have taken to ensure plant and worker safety during the conditions that developed on February 16. Testimony in this area did not require expertise in the forensics of power plant explosions, and KCPL does not challenge any of the facts presented concerning the flow of fuel to the boiler.

KCPL concedes that the boiler explosion was caused by an accumulation of natural gas in the Hawthorn boiler (Exh. 12, p. 19). Mr. Ward documented that KCPL released the red hold on the main gas valve on February 16, and that KCPL created an unusual condition at Hawthorn by causing the wastewater flood that damaged the BMS system. He documented KCPL's failure to reestablish the hold on the main gas valve after KCPL's operators became aware of the water damage to the BMS system, and began receiving warning signals from that system (Exh. 6, pp. 19-20, app. 17). Mr. Ward also documented that KCPL employees spent nearly 10 hours drying, cleaning and repairing damaged and shorted BMS components without taking steps to

prevent the accidental flow of gas to the boiler. Throughout this period, KCPL did not de-energize the BMS system or tag close the main gas valve to the Hawthorn boiler, but continued to rely on the damaged BMS system to maintain plant safety. Mr. Ward also produced documentary evidence confirming that gas flow began around 9:30 pm on February 16, shortly after operators received a master fuel trip signal and reset, all while repairs continued on the BMS system. Using KCPL's documents, he traced a gas flow pathway of open valves from the main valve to the boiler (Exh. 6, pp. 19-20; app. 17). KCPL does not dispute any aspect of those facts.

KCPL has tried to make the prudence issues seem complicated, but they are not. Plant safety should always be a plant manager's top priority. The Safety Manual is designed to ensure it, and the BMS system was designed to ensure that it happened automatically. Both the Safety Manual and the computerized fuel management system are supposed to be implemented by managers that apply common sense. This did not occur here, and the result was a spectacular, but fortunately not tragic, explosion. There is nothing incomplete or inadequate about the record concerning KCPL's management failure. There is competent, largely contemporaneous evidence of management's failures.

2. The Record Demonstrates Declining KCPL Generation Performance

Staff agreed with GST that the equivalent availability factor of KCPL's generation units has declined (Staff I.B. at 9). Staff suggested that it seemed that KCPL currently is achieving an "acceptable" equivalent availability factor, but Staff Witness Ms. Eve Lissik reached her conclusions regarding this issue without making any adjustments to KCPL witness Eldridge's patently flawed peer group study (Vol. 7, pp. 320-321). GST witness Mr. Scott Norwood demonstrated that KCPL's peer group study was fatally flawed (*See* GST's I.B. at 19-23; Exh. 7, p. 21, fig. 3). Mr. Norwood's critique of the KCPL peer group study was contained in surrebuttal

testimony filed at the same time as Ms. Lissik's cross-surrebuttal testimony. Ms. Lissik's testimony did not take the numerous flaws identified by Mr. Norwood into account. Ms. Lissik subsequently acknowledged, for example, that the Wolf Creek plant should not have been included in KCPL's peer group study (Tr. Vol. 7, p. 325). Thus, the equivalent availability factors for KCPL's system developed by witness Eldridge are not valid. As Mr. Norwood explained, the data establishes two clear trends. First, KCPL has cut spending on its generating units to the bone in recent years. Second, generation performance has declined significantly in that same period in terms of rising forced outage rates and declining equivalent unit availability factor (Exh. 7, pp. 19-22).

F. Has KCPL operated and maintained its distribution and transmission facilities in a reasonable and prudent manner?

Staff recognizes that GST has experienced problems with KCPL's distribution and transmission systems (Staff I.B. at 9). In Staff's view, KCPL appears to have "corrected most, if not all, of the problems" (Staff I.B. at 9). KCPL claims that GST failed to provide facts that show that KCPL operated and maintained its distribution and transmission facilities in an unreasonable and imprudent manner (KCPL I.B. at 27). GST addressed this issue in its Initial Brief. Moreover, the transformer explosion on May 22, 2000 at Hawthorne graphically illustrates the validity of GST's continuing concerns. KCPL's mismanagement of its degraded system is endangering the lives of local firefighters as well as the lives and livelihood of GST's employees.⁷

⁷ On May 22, KCPL experienced an explosion and fire in a transfer at Hawthorn that was so intense firefighters were reluctant to approach it. See attached Kansas City Star story. As a result of this explosion, GST experienced disruption of electricity supply that caused a "breakout" of tons of molten steel.

G. Should the Commission order a formal investigation into the operation and maintenance of KCPL's generation, transmission, and distribution facilities?

Staff recommends against a formal investigation based on its assessment that KCPL's overall system is currently operating within "acceptable limits" (Staff I.B. at 10). As GST explained in its Initial Brief (*see* GST I.B. at 17-24), GST has documented a serious and steady decline in KCPL's performance since 1994. Furthermore, KCPL's deteriorating performance is even more alarming when considered in the context of the industry trend towards increasing generating unit availability and productivity. The May 22 transformer explosion at Hawthorn should remove all doubt as to the need for a thorough review of KCPL's operating practices by the Commission.

H. Should the Commission delay any decision in this case pending the outcome of the Staff's independent and final report of the boiler explosion of Hawthorn 5?

GST and KCPL urge the Commission to decide all issues posed in this proceeding without delay (KCPL I.B. at 28). Staff suggests that the Commission "may wish" to delay its decision "pending the outcome of the Staff's independent and final report on the incident at Hawthorn 5." Staff's sole reason for this delay is the "possibil[ity] that additional information may be developed that would aid the Commission in its decision" (Staff's I.B. at 10). Notably, Staff also does not allege that any facts presented by GST were insufficient or that any factual gaps exist as to the prudence issues. All litigation holds the "possibility" that additional facts may come to light. Fact finders must always look to the record before them rather than await the possibility that new facts could emerge. In this case, KCPL had over a year to identify all material facts and had ample opportunity to present any facts it deemed pertinent to the issues. GST has demonstrated by clear, convincing, and competent evidence that KCPL failed to manage its facilities in a reasonable and prudent manner (*See* GST I.B. at 12-24). In short, there

is a sufficient record for a determination on all issues, and neither affected party desires any further delay in a final resolution. Prompt resolution is essential for GST, since KCPL continues to overbill GST every hour of every day. This is a direct threat to GST's continued viability in Missouri, especially with another summer of unusually high price spikes likely looming ahead.

I. Are there sufficient facts before the Commission for it to make a decision?

As Staff correctly explained in its Initial Brief, expert opinion testimony alone may form the basis for a finding of substantial and competent evidence (Staff I.B. at 11-12). In this case, the expert testimony submitted by GST experts Ward, Carver, Norwood and Smith are supported by documentary evidence and verifiable analyses. In particular, with respect to the Hawthorn explosion issues, GST's testimony, as noted earlier, is documented by largely contemporaneous documents created by KCPL employees. Since a prudence case focuses on information available to management at the time of the events under scrutiny, these materials are the best and most reliable "fact" evidence of the information available to KCPL. Legally, the record is sufficient for a determination on all issues. As a practical matter, the record overwhelmingly supports the findings GST proposes.

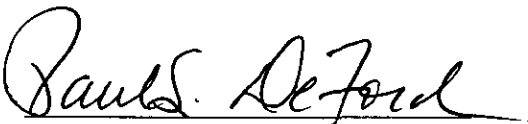
KCPL's complaint that GST witnesses do not testify from personal knowledge of the Hawthorn Incident (KCPL I.B. at 15) is ludicrous. It is not necessary to witness the explosion or walk around the rubble to address KCPL management imprudence. If KCPL believed any of the employee statements, plant records, and other documents that are in the record were inaccurate; it had the opportunity to produce better evidence. The record contains credible, reliable and complete evidence of a chain of events that is an embarrassment to KCPL. These events are well documented and were exclusively within KCPL's control at all times up to the point of the boiler explosion. By the same token, the disturbing rash of explosions and outages on KCPL's system

that is reflected in declining system performance is captured, oddly enough, in the poorly structured study that KCPL prepared in an effort to mask its poor performance. Like the Hawthorn fireball and this week's transformer explosion, the record in the case unmistakably demonstrates KCPL's imprudence.

CONCLUSION

For the reasons stated herein, as well as in GST's Initial Brief, GST requests that the Commission adopt GST Proposed Findings of Fact, and determine that KCPL has not operated its facilities in a reasonable and prudent manner. GST requests that the Commission determine that KCPL's charges to GST have not been just and reasonable since February 1999, that KCPL has overcharged GST by at least \$4.5 million since that time, and that it grant such other relief to GST that the Commission deems appropriate.

Respectfully submitted,



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May 24, 2000

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 24th day of May, 2000.

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Fire, explosion at KCP&L's Hawthorn power plant

By MALCOLM GARCIA *The Kansas City Star*

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Firefighters from Kansas City and area departments were cautiously trying to put out a fire at KCP&L's Hawthorn plant in the East Bottoms early this morning.

Area fire departments were brought in to try to put the fire out with foam. Firefighters were being careful in how they approached the fire because of concern about explosions.

The cause of the fire was not known early this morning. No injuries had been reported.

The fire caused a brief outage across the city after 11 p.m. Monday. The outage was a result of the load being shifted from the 345,000-volt transformer to other areas of the transformation system to maintain power in the area, said Tom Robinson, a Kansas City Power & Light spokesman.

Johny Teegarden, an iron worker at the plant, was leaving to get something to eat when he heard the explosion.

"We heard a big boom and saw a big flash, and then a bunch of little fires," he said. "By the time we got out of the plant that fire was burning good."

In February 1999, the complex near Front Street and Interstate 435 was rocked by a boiler explosion.

That late-night explosion woke people 20 miles away, knocked nearby workers off their feet and launched flames 200 feet into the night sky. The explosion was caused by a buildup of natural gas used to start the plant's boiler. One minor injury was reported.

That part of the plant, which is still not functioning, was one of KCP&L's main generating plants.

KCP&L decided to rebuild the plant, which accounted for 15 percent of the utility's capacity to generate electricity. The plant is scheduled to resume operation in summer 2001.

SPORTS BUSINESS FYI LOCAL SHOWTIME

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RE: Case No. EC-99-553

Dear Mr. Brew:

I am in receipt of your letter dated February 18, 2000 in which you recite your version of my recent conversations with Mr. DeFord and you. Your letter suggests that you believe that you have a right to inspect the documents stored at the Hawthorn facility. In the absence of an order from the Commission, KCPL is entitled to respond to any data request by providing the requested information or, affording you an opportunity to inspect and copy responsive documents.

As part of its investigation of the Hawthorn incident, KCPL has gathered tens of thousands of documents relating to the plant. The majority of these documents are not responsive to any of GST's data requests. As I have already stated, the only reason that KCPL permitted GST to inspect these documents is that it could not review, segregate, and provide copies of responsive documents in a timely fashion. That is no longer the case. I have asked you to identify those data requests that Mr. Ward did not complete, and offered to provide you with documents, if any, that are responsive to the outstanding data requests. Thus far, you have refused to do so.

Your concern about the case schedule is belied by the fact that you have waited approximately three months to inform me that you need to supplement or complete your review of the Hawthorn files. Any "delays" in getting responsive documents from the Hawthorn facility were caused by your tardy notification.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Gerald A. Reynolds", is written over the typed name.

Gerald A. Reynolds

cc: Lera L. Shemwell

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