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August 3, 2000

FILED³

AUG 03 2000

Missouri Public
Service Commission

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

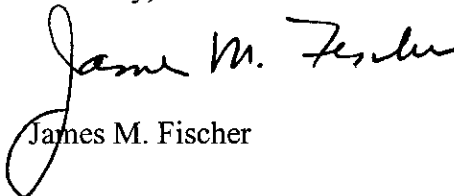
RE: *GS Technology Operating Company, d/b/a GST Steel Company*
Case No. EC-99-553

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the original and eight (8) copies of Kansas City Power & Light Company's Response to the Application for Rehearing of GST Steel Company. A copy of the foregoing Response has been hand-delivered or mailed this date to parties of record.

Thank you for your attention to this matter.

Sincerely,


James M. Fischer

/jr
Enclosures

cc: Paul S. DeFord
James W. Brew
John B. Coffman
Dana K. Joyce
Steven Dottheim
Lera L. Shemwell

BEFORE THE PUBLIC SERVICE COMMISSION
THE STATE OF MISSOURI

FILED³
AUG 03 2000

Missouri Public
Service Commission

GS Technology Operating Company,
d/b/a GST Steel Company,

Complainant,

vs.

Kansas City Power & Light Company,

Respondent.

Case No. EC-99-553

**KANSAS CITY POWER & LIGHT COMPANY'S
RESPONSE TO THE APPLICATION FOR REHEARING OF
GST STEEL COMPANY**

COMES NOW Kansas City Power & Light Company ("KCPL") and, pursuant to 4 CSR 240-2.080(16), respectfully responds to the Application for Rehearing ("GST's Application") of GST Steel Company ("GST") filed on July 24, 2000. In support of its Response, KCPL states as follows:

1. On July 13, 2000, the Commission issued its Report and Order in this matter, in which it found and concluded, among other things:

a. the Commission cannot direct KCPL to recalculate its charges to GST for electrical service already rendered, or to be rendered, as though some portion of that electricity had been generated by Hawthorn 5 at a lower cost. That would constitute a species of equitable relief and this Commission cannot do equity;

b. the Commission cannot direct KCPL to recalculate its charges to GST for electrical service already rendered, or to be rendered, using insurance proceeds received with respect to the Hawthorn 5 explosion to reduce the cost of replacement power;

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c. the burden of proof at hearing rests with the complainant in cases where, such as here, the complainant alleges that a regulated utility has engaged in unjust or unreasonable actions. Thus, GST must establish all facts necessary to support the relief it seeks by a preponderance of the credible evidence;

d. that GST has failed to show that imprudence on the part of KCPL employees caused the explosion at Hawthorn 5 on February 17, 1999;

e. that GST has not shown that it has been overcharged by KCPL for electric service;

f. that, at all times herein pertinent, Kansas City Power & Light Company has operated and maintained its generating, distributing and transmitting system at an adequate level, except that the Commission made no finding relative to KCPL's performance at the Hawthorn plant;

2. On July 24, 2000, GS Technologies Operating Company, Inc. d/b/a GST Steel Company ("GST") filed its Application for Rehearing, requesting that the Commission grant a rehearing in this matter.

3. Pursuant to Section 386.500, RSMo 1994, the Commission may grant a rehearing "if in its judgment sufficient reason therefore be made to appear. . ." However, as explained herein, GST has failed to justify its request for a rehearing, and has largely re-argued its case before the Commission. For the reasons stated herein, the Commission should summarily deny GST's request for a rehearing.

4. On pages 1-2 of GST's Application, GST summarizes three points of error that it believes justifies a rehearing in this matter. None of GST's stated reasons are correct, applicable, or otherwise constitute grounds for a rehearing of this matter.

5. First, GST alleges that the "Order failed to apply established legal principles and case law in assessing the evidence in the record and with respect to the burden of proof in cases of this nature." (GST Application, p. 1). GST is clearly incorrect on this point. The Commission's Report and Order on pages 19-32 painstakingly reviewed the applicable legal

principles and case law related to this case, and correctly applied the law in establishing that GST has the burden of proof in this proceeding. The Commission should therefore not grant a rehearing because of its alleged failure to apply legal principles and case law or properly assessing the burden of proof in this matter.

6. Second, GST alleges that the Order unlawfully discounted the expert testimony of GST's witnesses regarding the February 1999 Hawthorn Unit No. 5 boiler explosion. (GST Application, p. 1). GST is also in error on this point. The assessment of the credibility of witnesses and the weight to be afforded to the evidence presented by them is the unique responsibility of the Commission as the fact finder. KCPL explained at length in its Initial and Reply Briefs that GST witness Ward's testimony should be afforded little weight for numerous reasons, including most of those cited by the Commission in its Report and Order. (KCPL Initial Br. at 14-22; KCPL Reply Br. at 9-13). The fact that GST disagrees with the Commission on the weight to be afforded to Mr. Ward's testimony is not a reason sufficient to grant a rehearing in this matter.

7. Finally, GST alleges that "the Order fails to address KCPL's actions and failures to act . . ." related to GST's claims that it has been overcharged by KCPL. (GST Application, p. 2). GST is also incorrect on this point. The Commission addressed GST's claims that it was overcharged at pages 31-32 of its Report and Order when it stated:

Just and Reasonable Charges

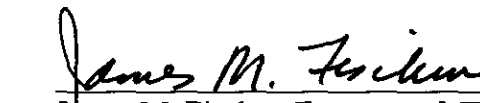
The Commission concludes that, throughout the pertinent period, KCPL's charges to GST for electric service have been just and reasonable. The charges were properly and correctly calculated under the special contract, which was freely negotiated by the parties and approved by the Commission. That contract was designed by the parties to afford GST the lowest possible rates for electric service. By virtue of its variable component, which rose and fell as KCPL's incremental costs of production rose and fell, the special contract necessarily carried with it a certain degree of risk. As Staff expert Dr. Michael S. Proctor testified, the parties apportioned these risks when they negotiated their special contract.

While GST has not enjoyed rates as low as it evidently hoped for, it has enjoyed rates lower than any of KCPL's tariffed rates. Thus, the Commission concludes that GST has not shown that it has been overcharged by KCPL for electric service.

8. Much of the remainder of GST's Application (pages 2-18) contains re-argument of the case it previously presented to the Commission. Since the Commission has already considered the legal arguments and supporting evidence in its Report and Order, it is unnecessary to address GST's arguments at length herein. Needless to say, these arguments do not constitute a sufficient reason to grant a rehearing of this matter.

WHEREFORE, having fully responded to the Application for Rehearing of GST Steel Company filed on July 24, 2000, Kansas City Power & Light Company respectfully requests that, for the above-stated reasons, the Commission deny GST Steel's Application for Rehearing in this proceeding.

Respectfully submitted,


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**Attorneys for
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CERTIFICATE OF SERVICE

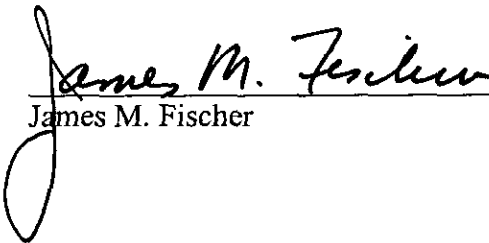
I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered or mailed, First Class mail, postage prepaid, this 3rd day of August, 2000, to:

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