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May 11, 1999

FILED

MAY 11 1999

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, MO 65101

Missouri Public
Service Commission

Re: In the Matter of Hawthorn Generating Station Unit No. 5 and the
Adequacy of Service Provided by the Kansas City Power & Light
Company; Case No. EO-99- EC-99-553

Dear Secretary Roberts:

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

- 1) An original and fourteen copies of GST Steel Company's Motion for Issuance of a Protective Order;
- 2) An original and fourteen copies of the public version of GST Steel Company's Petition for an Investigation as to the Adequacy of Service Provided by the Kansas City Power & Light Company and Request for Immediate Relief and Appendices; and
- 3) Eight separate sealed envelopes containing the Highly Confidential version of GST Steel Company's Petition for an Investigation as to the Adequacy of Service Provided by the Kansas City Power & Light Company and Request for Immediate Relief and Appendices.

Thanks you in advance for your attention to this matter.

Very truly yours,

LATHROP & GAGE L.C.

By:

Paul S. DeFord

Enclosures

cc: All parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

MAY 11 1999

In the Matter of Hawthorn Generating)
Station Unit No. 5 and the Adequacy)
of Service Provided by the)
Kansas City Power & Light Company)

Missouri Public
Service Commission

Case No. E0-99-553

**PETITION FOR AN INVESTIGATION AS TO THE ADEQUACY OF
SERVICE PROVIDED BY THE KANSAS CITY POWER & LIGHT
COMPANY AND REQUEST FOR IMMEDIATE RELIEF**

COMES NOW GST Steel Company ("GST") and hereby requests that the Public Service Commission of the State of Missouri (the "Commission") take action to assure that GST receives adequate service pursuant to Section 393.130.1, RSMo., and that the rates GST pays are just and reasonable in accordance with Section 393.130.1, RSMo. In support of its Petition and Request, GST states as follows:

I. INTRODUCTION

A. Background on GST

1. GST is a corporation duly authorized to conduct business in the State of Missouri, with its principal place of business located at 7000 Roberts Road, Kansas City, Missouri 64125. GST operates a steel manufacturing facility that produces grinding balls and rods for the mining industry, as well as carbon wire rods. In its manufacturing process, GST utilizes electric arc furnaces, which consume extremely large amounts of electric energy. GST is the largest single point retail customer on Kansas City Power & Light Company's ("KCPL") system, using in excess of half a billion kilowatt-hours of electricity every year, at a cost of millions of dollars. Consequently, electricity comprises one of GST's largest variable costs of producing steel, and as such is of critical importance to GST's ability to compete.

B. GST's Power Supply Arrangement with KCPL

2. GST purchases all of its electricity needs from KCPL, pursuant to an Amended and Restated Power Supply Agreement, executed on August 12, 1994, and approved by this Commission (the "Agreement").¹ The Agreement is attached hereto as Appendix A. GST respectfully refers the Commission to the confidential Staff Report and the Commission Order approving the Agreement, and suggests that the analysis, facts, and circumstances detailed in those materials are substantially correct today. The Staff Report and the Commission's Order are attached hereto as Appendices B and C, respectively. The rates that GST pays to KCPL pursuant to the Agreement are based in large part upon the incremental cost of power on the KCPL system.

3. GST is a special contract customer because no tariff is adequate for GST's unique load and usage requirements. GST is not seeking to "improve" or alter its Agreement with KCPL. GST is a captive customer of KCPL, and its rate is a regulated rate, just like any other rate, including tariffed rates. GST is simply seeking the equitable implementation of its contract and is attempting to ensure that it is not subject to unjust and unreasonable charges.²

¹ The Agreement is highly confidential, and, when approval was sought, was filed with the Commission under seal. Because this *Petition* contains confidential aspects of the Agreement woven throughout, and because this *Petition* contains highly confidential information and data related to GST's business, GST is filing concurrently a *Motion for Protective Order* seeking highly confidential treatment for this *Petition* as well as the exhibits to this *Petition*. GST is filing two versions of this *Petition*, one complete copy and one redacted version. GST has redacted portions of the *Petition* in an effort to keep confidential those portions of the Agreement that KCPL might believe to be worthy of protection.

² The Amended and Restated Power Supply Agreement between KCPL and GST recognizes that it is made "subject to the jurisdiction and authority of the Commission," and that "[n]otwithstanding any other provisions in this Agreement, nothing in the Agreement shall be construed as divesting or attempting to divest the Commission or other regulatory agency or body or any party hereto of any of its rights, jurisdiction, power or authority vested in it by law or provided in any governmental regulatory act or law." Appendix A at 12.

4. In becoming a special contract customer, GST did not agree to unreasonable discrimination.**

_____, **, GST did not agree to assume the risk of, or absorb the impacts of, the negligence and imprudence of KCPL, or of the failure of KCPL to make every reasonable effort to provide power at the lowest cost reasonably possible,

_____. ** GST's status as a special contract customer does not reduce the applicability of the laws designed to protect customers. *See* Section 393.130.1, RSMo.

C. GST's Reason For Concern

5. Any time one of KCPL's generating units is forced out of service, and is replaced either by a more expensive unit or by more expensive off-system power, GST is immediately impacted by the increased cost of power. For example, in August of 1998, a ruptured steam line at Hawthorn Generating Station Unit No. 5 ("Hawthorn 5") caused the unit to be off-line for all of September 1998. KCPL "thought that the Hawthorn 5 pipe was seamless." The pipe was in fact a welded pipe which had been omitted from KCPL's preventive maintenance program for the Hawthorn 5 unit. *See* Appendix D, Affidavit of Ronald S. Mulhauser at ¶10.

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_____. ** *See* Appendix D, Affidavit of Ronald S. Mulhauser at ¶14. This incident at Hawthorn 5 should not be confused with the boiler explosion that occurred at Hawthorn 5 on February 17, 1999. This steam pipe incident apparently did not serve as a sufficient warning sign to KCPL of problems at Hawthorn 5.

6. Furthermore, it is likewise GST's understanding that in the month of September 1998, no generating unit operated and maintained by KCPL operated for all 30 days of the month. Each unit that KCPL has the responsibility to run was off-line at some point during the month. See Appendix D, Affidavit of Ronald S. Mulhauser at ¶14. GST's power costs are directly affected by these unplanned outages. GST signed on to its Agreement with the expectation that KCPL would operate its system reliably and efficiently. KCPL's unreliable operation of its generating units, culminating with the Hawthorn 5 disaster in February, has left KCPL's continued ability to meet the needs of GST and other customers in doubt. KCPL's customers are paying for these facilities, and are entitled to see that they are operated in a prudent and reliable manner.

7. KCPL has pointedly told GST that it has no obligation to supply GST with any particular standard of service if not set forth explicitly in the Agreement. See Appendix D, Affidavit of Ronald S. Mulhauser at 11. **

**, Missouri law provides that all ratepayers are entitled to safe and adequate service – an entitlement that KCPL is not permitted to avoid. Notwithstanding its status as a special contract customer, GST is entitled to the same quality of service as all Missouri customers. The Missouri revised Statutes provide:

[E]very electrical corporation . . . shall furnish and provide such service instrumentalities and facilities as *shall be safe and adequate and in all respects just and reasonable*. All charges made or demanded by any such . . . electrical corporation . . . for . . . electricity . . . or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for . . . electricity . . . or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

Section 393.130.1, RSMo. (emphasis added).

II. KCPL'S SERVICE IS INADEQUATE

A. The Hawthorn Explosion and Outage

8. On February 17, 1999, there was an explosion of the boiler at Hawthorn 5, which led to the immediate shutdown of the unit for the foreseeable future and a total loss of the boiler. See KCPL Press Releases dated February 17, February 22, February 23, and March 2, 1999, attached hereto as Appendix E. Hawthorn 5 had a 479 megawatt net capacity and produced approximately 2 million megawatt hours each year. Hawthorn 5 was a low cost, coal-fired baseload generating unit, designed to provide KCPL with energy in thousands of hours each year.

9.** _____

_____.** Hawthorn 5 is the fourth lowest cost producer of energy in KCPL's system, and any energy that is available to replace Hawthorn's production will be more expensive, particularly during the summer months, and particularly when that power is purchased off-system.** _____

_____.**

10. The Staff indicated in a filing in Case No. ER-99-313 that it has initiated an investigation into the Hawthorn 5 explosion. See *Staff Reply to Response of GST Steel Company and Request for Emergency Relief and Investigation*, at 3 (filed March 23, 1999). GST and other interested ratepayers should have the opportunity to participate in the investigation because of the direct interest all KCPL customers have in the effects of the outage.

11. As a result of the potential crisis created by the Hawthorn explosion, the magnitude of the problems created, and KCPL's apparent intent to have GST bear at least some, if not the majority, of the costs associated with replacing the low-cost Hawthorn electricity (*see infra*), GST is concerned that the lack of availability of the Hawthorn station will have a severe impact on the price and availability of power in the Summer of 1999, and into the future.

B. Adequacy of Service Issues in Addition to the Hawthorn Incident

12. The explosion at the Hawthorn plant appears to be the culmination of the increasingly erratic and unreliable operation of the KCPL system. GST, to its own misfortune, has been at the front lines of KCPL's faltering system reliability.

13. These reliability problems encompass KCPL's entire system. GST believes that its recent power cost increases are due in part to the declining reliability of KCPL's generation units and an increasing forced outage rate. See Appendix D, Affidavit of Ronald S. Mulhauser at ¶¶ 12-14. Each unit outage on the KCPL system requires KCPL to replace the power that unit would otherwise generate. Replacement power is more expensive than the power that would otherwise be generated, in most circumstances. **

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14. The Commission should not limit the investigation to the Hawthorn 5 explosion, but should provide an opportunity to examine the adequacy of KCPL's power supply generally. The following five points provide support for an expanded investigation:

1. Generation Availability Data Indicates Increases In Forced Outages

15. Based upon the most recent information GST has been able to obtain, it is GST's understanding that in the first four months of 1998, KCPL experienced 26 unplanned outages at its La Cygne Nos. 1 and 2, Montrose Nos. 2 and 3, Hawthorn No. 5, and Iatan generating units. The units affected by these unplanned outages "lost" over 1,800 hours of electricity production. KCPL had at least one of its generating units in a forced outage situation in nearly 65% of the hours of the first four months of 1998. See "SPP Generation Outage Report," attached hereto as Exhibit F. In the previous five years, the total hours of unit forced outages never exceeded 60% of the total hours in the year, and in most years the total rate was at 33% or below.³ See Exhibit (c) (2) of KCPL's Application to the Kansas State Corporation Commission in Docket No. 99-KCPE-445-EGF, *In the Matter of the Application of Kansas City Power & Light Company for an Electric Generation Facility Siting Permit*. (GST has obtained from the Kansas State Corporation Commission a copy of the testimony of John R. Grimwade, filed on behalf of KCPL in Docket No. 99-KCPE-445-EGF, and certain exhibits sponsored by Mr. Grimwade (including Exhibit (c) (2)) that contain detailed outage data from January 1993 through December 1997.)

2. *KCPL Maintenance Expenses Have Been Declining*

16. While the causes of the reliability problems are far from clear, GST has suspected a change in KCPL's priorities in recent years. KCPL's own public filings provide evidence of these shifting priorities. In 1991 and 1992, KCPL spent roughly \$81 million on the maintenance of its generating, transmission and distribution plant. *KCPL 1993 SEC FORM 10-*

³ The calculations for both the first four months of 1998 and previous years exclude the impact of generating unit derates -- instances where a unit's production capability is temporarily reduced below normal, expected levels.**

**,

K at 20. KCPL's maintenance expenses have consistently stayed below 1992 levels, as shown in the following chart:

| <u>Year</u> | <u>Maintenance Expense</u> | <u>Change Compared to '92</u> |
|-------------|----------------------------|-------------------------------|
| 1992 | \$81,163,000 | |
| 1993 | \$78,550,000 | -3.2% |
| 1994 | \$72,468,000 | -10.7% |
| 1995 | \$78,439,000 | -3.4% |
| 1996 | \$71,495,000 | -11.9% |
| 1997 | \$70,892,000 | -12.7% |
| 1998 | \$70,998,000 | -12.5% |

KCPL 1993 SEC FORM 10-K at 20; KCPL 1996 FORM 10-K at 21; KCPL 1998 SEC FORM 10-K at 24. In spite of aging generating plants, aging transmission and distribution systems, and increasing load, KCPL has decreased the amount it spends on the maintenance of the facilities its customers rely on for the production and delivery of power. GST is concerned that this cost cutting is negatively impacting generating unit and system reliability, and consequently requiring additional purchases of off-system power, **

_____. **. While this general data suggests that maintenance has been declining and the forced outage rate increasing, GST asks the Commission to analyze KCPL's operation of its generating plant and the impact that has on KCPL's purchased power costs in order to determine the adequacy, reliability and prudence of KCPL's power supply.

3. *While Maintenance Costs Are Declining, Merger-Related Costs Have Been On the Rise*

17. During the same period that KCPL's yearly maintenance expenses were declining, KCPL was incurring significant costs in an attempt to enter into a merger with Utilicorp, and when that effort failed, Western Resources. In 1998, KCPL spent roughly \$15 million in merger-related expenses in an effort to merge with Western Resources. KCPL 1998 SEC FORM 10-K at

15. With proceedings underway at the Federal Energy Regulatory Commission, the Kansas Corporation Commission, as well as before this Commission, additional, significant expenses will continue to accrue for the near future. In 1997, KCPL spent roughly \$7 million in merger-related expenses, and incurred another \$53 million expense as a termination fee paid to Utilicorp as a result of the failed attempt to merge. *KCPL 1997 SEC FORM 10-K* at 44. In 1996, KCPL incurred \$13 million in previously deferred merger-related expenses, a \$5 million termination fee also related to the failed Utilicorp merger, and a \$13 million expense to defend against an unsolicited exchange offer made by Western Resources. *KCPL 1996 SEC FORM 10-K* at 18. The true "merger cost" to KCPL's customers, however, is in the continuing deterioration of KCPL's operations while the utility focuses its efforts on consummating a merger.⁴

4. *KCPL Has Not Added Generating Capacity Sufficient to Keep Pace With Load Growth*

18. GST believes that KCPL has not adequately or prudently planned for load growth and that KCPL has been increasingly relying upon purchased power, to the detriment of GST's power cost. This reliance on purchased power has reached crisis levels with the loss of Hawthorn 5. Furthermore, GST fears that this reliance of purchased power may be threatening the reliability of KCPL's system ** _____ **, inflicting additional economic harm on GST.

19. From 1995 to 1998, KCPL's peak demand went from 2,714 megawatts to 3,175 megawatts, an increase of 17%. *KCPL 1998 Annual Report* at 48. Over the same time period,

⁴ While GST recognizes that the Commission has an open docket for consideration of the proposed merger (Case No. EM-97-515), GST does not believe that the current reliability of the KCPL system is appropriately at issue in that docket, regardless of the cause, nor does GST believe that the merger proceeding can provide a sufficiently timely forum to resolve GST's concerns.

KCPL's available net generating capability was growing at a much lower rate, thus causing KCPL's generating reserve margin to decline from 14% in 1995 to 6% in 1998, and increase KCPL's dependence on purchased power. *KCPL 1998 Annual Report* at 48. KCPL's purchased power expense has consistently increased from 1994 through 1998, from approximately \$33.9 million to \$63.6 million. *KCPL 1996 SEC FORM 10-K* at 21; *KCPL 1998 SEC FORM 10-K* at 24.

5. *Numerous Power Delivery Problems Have Adversely Impacted GST*

20. On numerous separate occasions since January 1998, GST shut down all or part of its operations as a result of KCPL's unreliable maintenance of the facilities it uses to deliver power to GST. These forced outages were related solely to reliability

** _____ **. ⁵ In fact, many of these shutdowns occurred during non-peak hours of operation. These forced shutdowns caused GST to lose production time in excess of 2,000 minutes, resulting in lost revenues of approximately \$1.2 million. Details as to power delivery reliability problems are provided in the attached affidavit of Ronald F. Lewonski. See Appendix G, Affidavit of Ronald F. Lewonski at ¶6. KCPL has acknowledged these problems resulting from substation and distribution

⁵ During the summer of 1998, GST lost 46 hours and 20 minutes of Melt Shop production time
** _____ **. Appendix G, Affidavit of Ronald F. Lewonski at
¶8. ** _____ **, the Rod Mill also lost 780 minutes of production time.

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equipment failures. See Appendix H, Letter from KCPL dated December 15, 1998 (acknowledging 13 outages).

21. GST has suffered, and continues to experience, outages at its plant as the result of failures in KCPL equipment and maintenance. Given the litany of problems, far beyond those experienced by other steel mills, it is impossible to conclude that KCPL's service has been anything but inadequate. GST has had numerous meetings and conversations with KCPL personnel regarding the power supply problems at the mill and has been working with KCPL to resolve these issues. See Appendix G, Affidavit of Ronald F. Lewonski at ¶10; Appendix D, Affidavit of Ronald S. Mulhauser at ¶¶ 5-11. KCPL has committed to certain improvements. See Appendix I, Letter from KCPL dated February 25, 1999. While these corrections are beneficial, power delivery reliability problems continue to occur at GST, including two significant incidents that occurred on April 30 and May 2, 1999. [These incidents are under investigation to determine the exact cause.] GST is in the process of assessing damages, delay times and total costs of these incidents. See Appendix G, Affidavit of Ronald F. Lewonski at ¶9. GST believes that KCPL must take a more proactive approach to reliability, root cause analysis, and replacement of antiquated equipment, not simply engage in corrective action when problems arise.

III. POTENTIAL HARM TO GST

A. The Hawthorn Outage Directly, Substantially, and Negatively Impacts GST's Costs

22. KCPL has informed GST that as a result of the Hawthorn outage, GST should expect a multi-million dollar price increase for 1999. See Appendix D, Affidavit of Ronald S. Mulhauser at ¶10. With Hawthorn unavailable, ** _____

_____.** An increase of this magnitude,
** _____** could be sufficient to cause the mill to
reduce production to avoid the high prices and possibly lay-off employees. *See* Appendix D,
Affidavit of Ronald S. Mulhauser at ¶15. ** _____
_____** GST expects the brunt of the impact of
the Hawthorn 5 outage to occur in the summer months. With what KCPL has told GST to expect
regarding the Hawthorn 5 outage, and absent Commission action, GST expects this summer to be
much worse.

23. GST has expressed concern to KCPL about the potential level of cost increases
and the impact that would have on GST, and suggested to KCPL that steps need to be taken to
limit the cost increases. *See* Appendix D, Affidavit of Ronald S. Mulhauser at ¶¶ 5-11. GST's
suggestions have not been heeded. Because GST expects that the cost of this replacement power
will have its greatest impact on GST in the summer months, GST respectfully requests that this
Commission act on GST's request no later than 30 days from the date of this filing.

B. GST is Facing a Severe Threat to Its Continued Viability

24. The deteriorating reliability coupled with the possibility that GST's electricity
costs could increase by millions of dollars over the next year has created an emergency for GST.
GST is attempting to maintain its operations in an extremely competitive market, competing
against both domestic and international steel producers. In this type of competitive market, the
lack of a reliable supply of power or the imposition of unjust and unreasonable additional costs
will not only place GST at a significant disadvantage, it will also likely cause GST to decrease
production and reduce employment.

25. Under perfect circumstances, GST would be in a position to resolve a dispute of this type over a more expansive time frame. However, under the current circumstances in which GST is operating, a delay in relief of even a few months could prove permanent and irreparable. KCPL has told GST to expect significant cost increases this year as a result of the Hawthorn 5 outage, particularly in the summer months. If relief to GST is not forthcoming prior to the summer, relief at some subsequent date will be of little solace to GST or its employees.

26. The steel industry is currently facing severe competitive pressures. Already one Missouri-based steel producer has filed for bankruptcy protection – Laclede Steel Company of St. Louis. In early April another steel producer – Qualitech of Indiana – joined the ranks of steel producers seeking Chapter 11 protection. GST itself is facing serious financial pressures, and KCPL's actions are exacerbating the situation and threatening the viability of GST and its continued employment of over 800 people at its Kansas City plant.

IV. REQUESTED RELIEF

A. The Commission Should Take Immediate Steps to Prevent KCPL From Causing Irreparable Harm

27. GST requests that this Commission take immediate steps to protect GST from exposure to unjust and unreasonable charges for electric service. GST further requests that the Commission issue an order on an expedited basis to ensure that the parties quickly proceed towards a resolution of all issues GST has identified. Specifically, GST suggests that the Commission issue an order that addresses the following:

- (i) Prohibit KCPL from collecting from GST or similarly situated customers any of the replacement power costs or other direct and incidental costs caused by the Hawthorn 5

shutdown in excess of the costs that would have been incurred were Hawthorn 5 in service.

(ii) Require KCPL to utilize any and all insurance proceeds received as a result of the Hawthorn 5 outage first to protect all ratepayers from harm as a result of the outage, and then shareholders; and

(iii) Establish this docket as a formal Commission investigation into the Hawthorn 5 incident and the overall adequacy, reliability, and prudence of KCPL's power supply, and permit other interested parties to immediately intervene and participate in the investigation;

B. Take Immediate Action Through This Proceeding to Ensure Just and Reasonable Rates for All Customers

28. It is critical to GST that the Commission take immediate action through this proceeding to address the issues identified in this Petition supported by the accompanying affidavits of Ronald S. Mulhauser and Ronald F. Lewonski. The Staff indicated in a filing in Case No. ER-99-313 that it does not expect its investigation of the Hawthorn incident to be completed for 6 to 12 months. *See Staff Reply to Response of GST Steel Company and Request for Emergency Relief and Investigation*, filed March 23, 1999, at 3. GST cannot wait this long for relief. If GST does not receive immediate relief, the expected power cost increases may necessitate a partial shutdown of the facility, with a consequent loss of jobs. Appendix D, Affidavit of Ronald S. Mulhauser at ¶15.

29. Under these unique circumstances and given the imminence of the threat, the Commission should mandate that any replacement power costs

** _____ ** be priced at a rate no higher than the energy

cost that would otherwise have been incurred in absence of the Hawthorn 5 outage.

**

**. Because KCPL is insured against such a loss, this is the only solution that will allow both KCPL and all of its customers, including GST, to remain relatively unharmed. KCPL should bear the burden going forward to prove that, given the circumstances, its rates are just and reasonable. This type of emergency Commission action is authorized by Section 386.310.1, RSMo. To facilitate an expedited ruling on its request for emergency relief, GST has hand-delivered copies of this pleading to KCPL, the Commission Staff, and the Office of Public Counsel. GST requests that the Commission shorten the time for response to this section IV.B. of the Petition which addresses the need for emergency relief to five (5) days and establish a separate procedural schedule to consider the emergency relief requested in this Petition.

C. KCPL Should Be Required to Utilize the Hawthorn 5 Insurance Proceeds to Benefit Ratepayers Harmed as a Result of the Outage

30. The Commission should order KCPL to utilize the insurance proceeds received on account of the Hawthorn 5 outage to offset the associated replacement power costs charged to all customers, including GST, until such time as KCPL can prove to the Commission that such treatment is inappropriate. KCPL has stated in press releases that it "anticipates that the impact of these higher costs will be offset by . . . \$5.0 million in insurance coverage for replacement power" Appendix E, Press Release dated March 2, 1999.⁶ This insurance coverage was presumably paid for out of the rates charged to KCPL's customers, including GST. Thus, the insurance proceeds should be used to offset the impact of the replacement power costs on KCPL's customers, and should not simply go towards protecting shareholders. KCPL has

⁶ In addition, KCPL has noted that it "has insurance coverage for this type of event, with limits of \$300 million." Appendix E, Press Release dated March 2, 1999.

repeatedly stated that it does not anticipate rate increases as a result of the Hawthorn 5 outage. Appendix E, Press Release dated March 2, 1999. Staff has noted that the capital costs, replacement power costs, and other direct or incidental costs caused by the Hawthorn 5 outage are not in the standard KCPL rates presently in effect, nor will these costs be in the rates to be charged pursuant to the Stipulation and Agreement filed with the Commission on January 26, 1999 in Case No. ER-99-313. *See Staff Reply to Response of GST Steel Company and Request for Emergency Relief and Investigation*, filed March 23, 1999, at 5. While KCPL's tariffed customers have protection, and KCPL apparently intends to use the insurance proceeds for the protection of shareholders, KCPL proposes to have GST bear the full brunt of the impact of the Hawthorn 5 outage. At a minimum, any insurance proceeds received by KCPL for the effects of the outage should be used to protect all customers, absent a showing by KCPL that a contrary result is warranted. As in the previous section of this Petition, GST requests that the Commission shorten the time for response to this section IV.C. of the Petition to five (5) days, and consider the relief requested in this section on the separate schedule created to consider the emergency relief requested in this Petition.

D. Establish a Commission Investigation into the Hawthorn 5 Incident and the Overall Adequacy, Reliability and Prudence of KCPL's Power Supply

31. The Commission has authority to "examine or investigate the methods employed by such persons and corporations in manufacturing, distributing and supplying gas or electricity for light, heat or power and in transmitting the same" Section 393.140(1), RSMo. The Commission further has the power to "order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas, electricity, water or sewer system," and to "order reasonable improvements and extensions of the works, wires, poles, pipes, lines, conduits, ducts and other reasonable devices, apparatus and property of . . .

electrical corporations” Section 393.140(2), RSMo. This authority serves to protect all utility customers, and does not single out contract customers for uniquely disfavored treatment. The Commission should in this proceeding review the reliability of KCPL generation, transmission and distribution facilities, including specifically, KCPL’s ability to deliver reliable electric service to GST and permit other interested parties to participate in the investigation.

32. Staff is currently investigating the Hawthorn incident to determine the causes of the accident and what action, if any, is justified. *See Staff Reply to Response of GST Steel Company and Request for Emergency Relief and Investigation*, filed in Case No. ER-99-313, at 3. In addition to continuing the investigation of Hawthorn established in this docket, the Staff should include in its investigation the safety and adequacy of service being provided by KCPL in general, which would include an investigation of KCPL’s operation and maintenance of its system as well as KCPL’s purchase power practices.

WHEREFORE, for the reasons set forth above, GST urges the Commission to grant the relief requested herein and such other relief as the Commission deems necessary and appropriate.

Respectfully submitted,



Paul S. DeFord Mo. #29509

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Washington, D.C. 20007

Counsel for GST Steel

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 11th day of May, 1999.

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Attorney

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| A..... | Amended and Restated Power Supply Agreement Between Kansas City Power and Light Company and GST Steel Company, dated August 12, 1994 |
| B..... | Missouri Public Service Commission Staff <i>Memorandum</i> in Case No. EO-95-67 |
| C..... | <i>Order Approving Agreement and Tariff</i> , Case No. EO-95-67 |
| D..... | Affidavit of Ronald S. Mulhauser |
| E..... | KCPL Press Releases Dated February 17, February 22, February 23, and March 2, 1999 |
| F..... | SPP Generation Outage Report |
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