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October 4, 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

FILED
OCT 4 1999
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 is an original and fourteen (14) copies of the following:

**GST Steel Company's Request for Reconsideration and Reply
to Kansas City Power and Light Company's Motion to Compel
GST Responses to The First Set of Interrogatories and Requests
for Production of Documents and Suggestions in Support**

If you have any questions concerning this filing, please contact the undersigned.

Thank you in advance for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By:

Kurt U. Schaefer

KUS/sk
Enclosure
cc: To all parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED

OCT 4 1999

Missouri Public
Service Commission

GST Steel Company,)	
)	
Complainant)	
v.)	Case No. EC-99-553
)	
Kansas City Power & Light Company,)	
)	
Respondent.)	

**GST STEEL COMPANY'S
REQUEST FOR RECONSIDERATION AND REPLY TO
KANSAS CITY POWER AND LIGHT COMPANY'S MOTION TO COMPEL
GST RESPONSES TO THE FIRST SET
OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF
DOCUMENTS AND SUGGESTIONS IN SUPPORT**

GST Steel Company ("GST") hereby submits this Request for Reconsideration of the *Order Regarding Kansas City Power & Light Company's First Motion to Compel Discovery and Amending the Procedural Schedule* (the "September 21, 1999 Order") and its Reply to Kansas City Power & Light Company's ("KCPL") Motion to Compel answers to the First Set of Interrogatories and Requests for Production of Documents Propounded by KCPL to GST. The Order, in pertinent part, granted a KCPL motion to compel that GST never received. As explained herein, GST properly objected to the requests on the grounds that they are irrelevant to the issues in this proceeding.

I. BACKGROUND

1. On or about August 5, 1999, GST received copies of KCPL's First Set of Interrogatories and Requests for Production of Documents ("Requests").

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2. Within the applicable time deadline prescribed by 4 CSR 240-2.090 of the Commission's Rules of Practice and Procedure, GST provided specific objections to KCPL on August 16, 1999. A copy of GST's objections is attached to KCPL's Motion to Compel.

3. GST provided complete answers and relevant documents to a large portion of KCPL's Requests on August 24, 1999, including a log of documents covered by the attorney-client privilege or work-product privilege, and redacted and non-redacted versions of confidential documents.

4. From August 24, 1999 through September 22, 1999, neither GST nor its attorneys received correspondence regarding KCPL's first set of Requests.

5. On September 13, 1999, GST and KCPL submitted a joint motion to modify the procedural schedule in this docket. On September 23, 1999, GST's attorneys, Brickfield, Burchette & Ritts, P.C. received via facsimile from its local counsel, Lathrop & Gage, L.C., located in Kansas City, Missouri, a copy of the September 21, 1999 Order. This Order granted the parties' request to modify the schedule. This Order, however, also stated:

On August 31, 1999, KCPL filed its first motion to compel discovery. This motion followed two similar motions filed by GST which were largely sustained by the Commission on July 29, 1999 and August 19, 1999, respectively. Because GST has filed no response to KCPL's motion to compel, and thereby has waived its objections to the discovery in question, KCPL's motion will be sustained.

This statement provided the first indication to GST and its attorneys that such a motion had ever been filed by KCPL. Neither GST nor its attorneys were informed by telephone conversation, facsimile, overnight delivery, or mail of KCPL's Motion to Compel. In fact, GST only received a copy of KCPL's motion after its attorney, upon reviewing the

above-referenced Order, called counsel for KCPL and requested a copy of the Motion. A copy was faxed to GST's attorneys at 5 PM (Eastern Time) on September 23, 1999 – four weeks after the date in which the Motion assertedly was filed. Whether inadvertent or not, the failure to serve opposing counsel denied GST its due process entitlement to respond to the KCPL Motion. GST requests that the Commission amend the September 21, 1999 Order by excising the above quoted paragraph and to rule upon KCPL's Motion to Compel *de novo* after considering GST's response.

6. GST hereby files this Reply to KCPL's Motion to Compel as soon as practicable following its long overdue receipt of KCPL's Motion.

II. DISCUSSION

7. In its July 29, 1999 and August 19, 1999 Orders,¹ the Commission framed the issues for this proceeding to address “both the adequacy and reliability of the electric service provided by KCPL and whether or not KCPL's charges to GST for that service are just and reasonable.” *Commission's August 19, 1999 Order* at 8; *see also Commission's July 29, 1999 Order* at 6. The Commission also stated that the Hawthorn incident is relevant to the issue of service adequacy. *See July 29, 1999 Order* at 7.

8. Consistent with these Commission Orders, GST provided full and complete responses to each of KCPL's Requests that addressed the adequacy, reliability, and just and reasonable rate issues in this proceeding. GST objected to Requests 5-19, which concern GST's commercial relationship with AIR, a direct reduced iron producer;

¹ *Order Regarding GST Steel Company's First Motion to Compel Discovery and Amending the Procedural Schedule*, EC-99-553, July 29, 1999 [hereinafter “*Commission's July 29, 1999 Order*”]; *Order Regarding KCPL's Motion for Clarification, Reconsideration, and Rehearing of the Commission's Order of July 29, 1999, and Regarding GST Steel Company's Second Motion to Compel Discovery*, EC-99-553, August 19, 1999 [hereinafter “*Commission's August 19, 1999 Order*”].

Request 46, which concerns labor disputes or strikes at GST; Requests 47-48, which concern the Asian economic crisis; and, Request 49, which concerns electric rates at other GSTOC domestic steel facilities. None of these subject matters are germane to the adequacy of service, contract, and rate issues before the Commission.

9. KCPL devoted a significant portion of its Motion to Compel to an essay on GST's supposed economic suffering and misfortunes, but fails to explain how these incidents are in some way relevant to the issues framed for this proceeding. KCPL stated that: (1) GST and GSTOC suffered losses due to declines in the selling price for its steel products; (2) GST entered into an unprofitable venture with AIR; and (3) strikes cost GST millions of dollars. Whether any of these statements are wildly inaccurate or close to the mark is of no consequence to the issues the Commission must decide. This case concerns KCPL's management of its incremental costs charged to GST and the adequacy of its electric service to GST, not steel making or global economic matters divorced altogether from the cost of electric service.

10. As the Commission noted in its Orders granting GST's motions to compel discovery, the issues posed in this docket are complex. By attempting to draw matters that are plainly irrelevant into the case, including GST's direct reduced iron producer, labor disputes, Asia's economy, and the electric rates of other steel facilities not in KCPL's service territory, KCPL would inappropriately muddle an already complicated case. The Commission should not allow KCPL to distract these proceedings in this manner.

11. GST's day-to-day steel making operations and its experiences in the steel market over the past few years are not in any way a defense to KCPL's management of

its supply resources and operating practices. It is obvious, for example, that the price GST pays for direct reduced iron ore has nothing to do with the justness and reasonableness of KCPL's rates. Further, the perturbation of Asian economies is in no way connected to whether KCPL provides adequate and reliable electric service to GST.

12. GST reiterates that it is not attempting to alter the Special Contract approved by the Commission. KCPL states in paragraph eleven of its Motion to Compel that GST was "aware of and accepted the benefits and risks associated with the pricing structure of the Special Contract," and thus claims that GST is now somehow attempting to alter the terms of the Special Contract. GST fully understands the nature of an incremental cost-based contract. The salient point is that it is a cost-based contract, and KCPL may only include prudently incurred costs in the rates charged to GST.

13. GST's remaining objections were to Requests 24-25, which sought irrelevant documents between GST and its financial advisor, and to Requests 38-41, which inappropriately asked GST to draw a legal conclusion. GST's past discussions, projections, or other analyses regarding the Special Contract have no bearing on the actual incremental costs KCPL charged to GST after the Hawthorn explosion and discovery in this proceeding should be limited to the issues that are properly before the Commission.

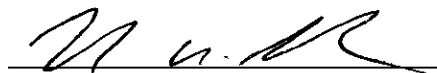
III. CONCLUSION

14. By its Order dated July 29, 1999 and restated in its Order dated August 19, 1999, the Commission narrowed the issues in this proceeding to "the adequacy of service provided to GST by KCPL [including the Hawthorn incident] and whether or not KCPL's

charges to GST are just and reasonable.”² Discovery in this proceeding must focus on these issues, and specifically on KCPL’s management of its incremental costs charged to GST. The requests submitted by KCPL that GST objects to answering fall well outside the scope of this docket.

WHEREFORE, for the reasons stated above, GST requests that this Commission deny KCPL’s Motion to Compel GST’s Responses to the First Set of Interrogatories and Requests for Production of Documents and Suggestions in Support propounded by KCPL to GST.

Respectfully submitted,



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Dated: October 4, 1999

² See Commission’s July 29, 1999 Order at 6; see also Commission’s August 19, 1999 Order at 8.

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 October, 1999.

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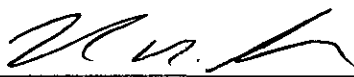
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