

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

In the Matter of Kansas City Power & Light) **File No. EO-2019-0132**
Company’s Application for Authority to Establish a) Tariff No. JE-2019-0104
Demand-Side Programs Investment Mechanism) Tariff No. YE-2019-0103

In the Matter of KCP&L Greater Missouri Operations)
Application for Authority to Establish a Demand-) **File No. EO-2019-0133**
Side Programs Investment Mechanism) Tariff No. YE-2019-0102

**POSITION STATEMENT OF THE
MIDWEST ENERGY CONSUMERS GROUP**

COMES NOW the Midwest Energy Consumers Group (“MECG”), pursuant to the Commission’s August 7, 2019 *Order Granting Variance Setting Procedural Schedule And Other Procedural Requirements*, and for its Statement of Positions on the Issues presented in the joint September 17 List of Issues respectfully states as follows:

Issue 5: Should Opt-Out Customers be eligible to participate in Business Demand Response programs?

Position: YES

In 2009, the General Assembly enacted the Missouri Energy Efficiency Investment Act (“MEEIA”). MEEIA provides a mechanism for regulated utilities to recover, between rate cases, its investment in energy efficiency. Section 393.1075.7 provides a mechanism by which certain large commercial and industrial customers may opt out of the utility’s energy efficiency programs and costs.

Despite the opt out ability, Section 393.1075(10) provides that such opt out customers may still participate in utility “interruptible or curtailable rate schedules”.

Customers electing not to participate in an electric corporation’s demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric corporation.

In this case, KCPL and GMO both acknowledge that the proposed demand response programs constitute interruptible or curtailment programs.

1.1 Does KCPL and GMO believe that the proposed non-residential demand response programs proposed by KCPL and GMO constitute interruptible or curtailment programs such that opt-out customers may participate in the demand response programs? If no, please provide KCPL and GMO's definition of an interruptible or curtailment program.

Response: Yes, KCP&L and GMO currently believe that the proposed non-residential DR program, Business Demand Response, is an interruptible or curtailable program.

Recognizing that the proposed Business Demand Response program is an "interruptible or curtailable" program within the meaning of Section 393.1075(10), opt out customers may participate in those programs.

Opt out customers are not only legally permitted to participate in the Business Demand Response program, they should also be invited to participate in such programs for policy reasons. KCPL's current MEEIA cost for non-residential customers is 0.252 ¢ / kWh. Therefore, an opt out customer that uses 50,000,000 kWh in a year, will save \$126,000 by opting out of KCPL's MEEIA programs and costs. Given the minimal compensation associated with the Business Demand Response program, however, this opt out customer would never agree to participate in the Business Demand Response program if it is simultaneously required to pay KCPL MEEIA costs. The benefits of participation in the Business Demand Response program would not offset the cost of paying KCPL MEEIA costs.

Given this, the success of KCPL and GMO's Business Demand Response program is essentially doomed for failure if the largest customers, those that are best able to curtail a large portion of load in response to an interruption, are not permitted to participate in the program. Instead, KCPL and GMO would have to cobble together load interruption from non-opt out customers. The difficulty arises in that, while it may take a single large opt out customer to interrupt 5 MWs of load, it would take 100 non-opt out customers to interrupt the same amount of load. The logistics of running an interruptible program becomes much more difficult if the Commission attempts to preclude the largest customers, albeit customers that have opted out of energy efficiency costs, from participating in the interruptible program.

Given the legal requirement that opt out customers be permitted to participate in interruptible / curtailment programs, as well as the logistics of operating such a program, the Commission should continue to permit opt out customers to participate in KCPL and GMO's Business Demand Response program.

Issue 5(a): Should GMO be required to publish in its tariff the participation payment to customers that participate in the Business Demand Response programs?

Position: YES

Section 393.140(11) provides that the Commission shall require electrical corporations to publish its rates and charges.

The Commission shall have power to require every. . . electrical corporation. . . to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used.

That statute section applies not only to rates, but also extends to refunds or discounts.

No corporation shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such services as specified in its schedule filed and in effect at the time; nor shall any corporation refund or remit in any manner or by any device any portion of the rates or charges so specified, nor to extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons and corporations under like circumstances.

Finally, Section 393.140(5) requires that all rates and service be provided in a non-discriminatory manner.

Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, the commission shall determine and prescribe the just and reasonable rates and charges thereafter to be in force.

Historically, KCPL and GMO published a rate schedule which included the level of compensation paid to customers participating in its interruptible or curtailment programs. Recently, however, that level of compensation was removed from the rate schedules and was instead contained in individual customer contracts. The fact that compensation for interruptible / curtailment programs was removed from the rate schedules makes it impossible for customers to determine if KCPL and GMO are providing the same level of compensation to customers that are similarly situation or, in the alternative, if KCPL and GMO are providing compensation to interruptible customers in a discriminatory manner. Given the directives of the statute, the Commission should require KCPL and GMO to include the levels of interruptible compensation in its tariffs.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

/s/ David Woodsmall
David L. Woodsmall

Dated: September 18, 2019