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May 21, 1999

VIA HAND DELIVERY

FILED

MAY 21 1999

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Truman State Office Building, Room 530
Jefferson City Missouri 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. EC-99-553

Dear Secretary Roberts:

Enclosed for filing is an original and fourteen copies of Response of GST Steel Company to KCPL's Reply to GST's Request for Immediate Relief.

If you have any questions concerning this filing, please advise.

Sincerely,

LATHROP & GAGE L.C.

By:


Kurt U. Schaefer

Encs

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

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Missouri Public
Service Commission

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

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RESPONSE OF GST STEEL COMPANY
TO KCPL'S REPLY TO
GST'S REQUEST FOR IMMEDIATE RELIEF

COMES NOW GST Steel Company ("GST") and in response to the Reply of Kansas City Power & Light Company ("KCPL") to GST's Request for Immediate Relief ("KCPL Reply") filed on May 18, 1999, respectfully states:

1. The outage of Hawthorn 5 continues and is causing an imminent threat of serious harm to GST. With Hawthorn 5 forced out of service permanently, it is being replaced either by more expensive units or by more expensive off-system power. In its 1998 10-K (annual report) filed with the Securities and Exchange Commission, KCPL recognized that replacement power is significantly more expensive than power generated by KCPL:

Purchased power expenses also increased in 1998 due to replacement power expenses incurred during the Hawthorn 5 and LaCygne 1 generating unit outages. . . . *The cost per kwh for purchased power was significantly higher than the cost per kwh of [KCPL's] generation.*¹

¹ Kansas City Power & Light Co., Form 10-K, pp. 16-17 (March 3, 1999) (emphasis added).

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The cost of the more expensive purchased power will be borne by GST. The Hawthorn outage has severely damaged KCPL's ability to provide safe, adequate and reliable service to GST and KCPL's other customers.

2. Power delivery problems also continue to affect KCPL's ability to provide safe, adequate and reliable service to its other customers. Most recently, early in the morning of May 19, 1999, a transformer fire occurred that resulted in a loss of power to 4,000 of KCPL's Kansas residential customers. The Kansas City Star reported the incident:

A fire started in an electrical transformer early Wednesday at a substation at 95th Street and Loiret Boulevard.

Firefighters used foam to control the blaze, which was extinguished about 3 a.m. No one was injured, said Lenexa Fire Lt. Roger Brennan.

About 4,000 customers were without power for several hours, but everyone had power by 4 a.m., said Pam Levetzow, a Kansas City Power & Light Co. spokeswoman.

The damage was confined to the transformer. If the equipment cannot be repaired, it could cost up to \$750,000 to replace it, Levetzow said.²

This incident follows the incidents of April 30, 1999 and May 2, 1999 reported in GST's Petition, and appears to be a further result of KCPL's decreased expenditures on maintenance and reliability.

3. In its Reply, KCPL does not deny *any* of the factual allegations made by GST in its Petition or affidavits. There is no genuine issue of any of the material facts alleged by GST:

² Appendix A, "Transformer Fire," *The Star*, (May 5, 1999) (electronic media version).

- KCPL does not dispute that Hawthorne 5 is out of service or that the recent reliability incidents occurred;
- KCPL does not dispute that the cost of replacement power will be significantly more expensive than the cost of power generated by Hawthorn 5 (indeed, KCPL admitted this to be the case in 1998); and
- KCPL also does not dispute that GST is being directly impacted by these cost increases due to the nature of its power supply agreement.

4. KCPL has not denied that it owes GST a duty to operate its plants in a safe, adequate and prudent manner. Furthermore, KCPL does not dispute that GST is not protected from cost increases resulting from the Hawthorn outage. KCPL merely states that GST has the option of switching to standard tariff service.³ KCPL ignores that the Commission, in approving GST's special contract and corresponding tariff, determined that the special contract and tariff were warranted by GST's "special situation."⁴ KCPL has promised its other customers that it will not pass through the replacement power costs associated with Hawthorn, but KCPL has refused to make the same commitment to GST. There is no reasonable basis for KCPL's refusal to hold GST harmless from the direct and indirect impacts of the Hawthorn plant explosion. This undue and discriminatory treatment by KCPL is unreasonable and is expressly prohibited by statute. See Sections 393.130(3) and 393.140(5), RSMo. GST's status as a special contract

³ KCPL Reply at p. 2.

⁴ *In the matter of a special contract filed by Kansas City Power & Light Company*, Case No. EO-95-67 (October 26, 1994).

customer does not permit KCPL to operate its system in an unreliable manner and require GST to assume the risks of KCPL's imprudent actions.

5. The Commission possesses the authority to take immediate action to ensure that the rates charged by KCPL to all customers are just and reasonable and to prohibit KCPL from collecting from GST any of the replacement power costs or other direct and incidental costs caused by the Hawthorn 5 shutdown. Section 393.130, RSMo. Further support for immediate Commission action is found in Section 386.310(1), RSMo., which sets forth the Commission's emergency powers. The Commission may "waive the requirements for notice and hearing and provide for expeditious issuance of an order in any case in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm." As set forth in GST's Petition and supporting affidavits, the deteriorating reliability coupled with the threat of increased power costs has created an emergency situation for GST and resulted in the likelihood of imminent harm to GST.⁵

6. The hearing requirement set forth in Section 393.140(5), RSMo. can be waived, and the requested immediate relief implemented, if the Commission finds emergency circumstances exist. Given that KCPL's Reply did not refute GST's claim of emergency circumstances, the Commission should immediately grant the initial relief requested in GST's Petition. In the alternative, the Commission should hold the requisite hearing as soon as possible in order to prohibit KCPL from collecting from GST any additional replacement power costs or other direct and incidental costs caused by the Hawthorn 5 shutdown.

⁵ GST's Petition, pp. 12-13.

7. KCPL did not respond to GST's request that it be ordered immediately 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. The Commission has ample authority to immediately order that the insurance proceeds be first utilized to protect all of KCPL's ratepayers. *See* Section 393.140(8), RSMo. Again, the requisite hearing should be waived due to the unrefuted presence of emergency circumstances.

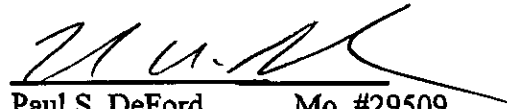
8. The Commission possesses the necessary authority to commence immediately without a hearing an investigation into the Hawthorn 5 incident and the overall adequacy, reliability and prudence of KCPL's power supply, as requested by GST in its Petition. Section 393.140(1)&(2), RSMo. Such an investigation established in this docket would provide all interested parties with an opportunity to protect their interests with respect to Hawthorn 5.

WHEREFORE, for the reasons set forth above, there being no genuine issue of material fact, GST urges the Commission to find emergency circumstances exist and to implement the requested relief set forth in GST's Petition and issue an order:

- i) prohibiting KCPL from collecting from GST 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) requiring 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
- (iii) establishing this docket as a formal Commission investigation into the Hawthorn 5 incident and the overall adequacy, reliability, and prudence of KCPL's power supply.

If the Commission does not find that emergency circumstances exist sufficient to grant the requested relief without a hearing, GST respectfully requests that the Commission conduct the requisite hearing prior to May 31, 1999, and issue an order implementing the requested relief set forth above.

Respectfully submitted,



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Appendix A

The Star.

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LOCAL

SPORTS BUSINESS FYI LOCAL SHOWTIME

Metropolitan digest

Date: 05/19/99 22:15

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Authorities have charged one man and issued a warrant for another in the shooting death of Derrick A. Ross in February.

Ross' body was found in his apartment in the 5800 block of 126th Street.

Prosecutors charged Torrica V. Wright, 20, of Kansas City, earlier this week with second-degree murder and armed criminal action. Wright was being held in the Jackson County Jail. His bond was \$600,000.

A warrant for second-degree murder and armed criminal action was issued for Anthony E. Tanner, 17, whose last known address is in the 8000 block of the Paseo.

Anyone with information is asked to call the TIPS Hotline at 474-TIPS (474-8477).

CLAY COUNTY**New robbery charge**

A man who in 1986 became the youngest person sentenced to death in Missouri was arraigned Wednesday on an additional robbery charge in his case.

Heath A. Wilkins was suspected of stabbing a young woman to death in a 1985 Avondale store robbery. He was 16 years old. He was never charged with the robbery, but in 1986 he fired his attorney, pleaded guilty in Clay County Circuit Court to first-degree murder and requested the death penalty.

The Supreme Court in 1989 ruled that Wilkins could be executed, establishing 16 as the minimum age for the death penalty.

A federal appeals court last year overturned Wilkins' conviction and ordered a new trial. The appeals court said Wilkins suffered psychiatric disorders and did not know what he was doing when he pleaded guilty.

RAYTOWN**Fire injury**

Raytown firefighters removed a woman from a house fire Wednesday in the 8100 block of Kentucky Avenue.

Capt. Bill Denney said the woman was taken to the University of Kansas Medical Center, but he did not know her condition.

Firefighters received the call about 2:30 p.m. When they arrived, the south side of the house was in flames. Two cylinders from the woman's home oxygen unit exploded in the blaze.

Authorities think the fire began in a bedroom.

RAYMORE

Child porn sentence

A Raymore man was sentenced Wednesday to two years in federal prison for mail fraud and possession of child pornography.

Philip Dhyne, 48, was charged last summer with having three pornographic images of children on a computer at his home. Authorities discovered the pictures while searching the computer as part of an embezzlement investigation.

In January, federal prosecutors also charged him with mail fraud.

In sentencing Dhyne, U.S. District Judge Nanette Laughery also ordered him to pay \$37,114 in restitution to his former employer and restricted his use of computers and the Internet when he leaves prison on supervised release.

THE AREA

Alzheimer's picnic

The Alzheimer's Association – Heartland Chapter will sponsor a free picnic from 10:30 a.m. to 1 p.m. today at Loose Park in Kansas City.

Anyone affected by Alzheimer's disease is invited to eat barbecue, listen to music and help support one another at the picnic.

More than 700 balloons will be released to symbolize memories and hope. For information, call 831-3888.

FORT LEAVENWORTH

Escapee sentenced

A man who escaped from the U.S. Disciplinary Barracks at Fort Leavenworth last year was sentenced Monday to four years and two months.

Before the sentencing, Kenneth E. Taylor pleaded guilty to

escape, fleeing apprehension and conspiracy to escape, said spokeswoman Janet Wray.

Taylor escaped from the military prison April 30, 1998, allegedly with inmate Jeromy Willis. Platte County sheriff's deputies captured them within two hours.

Taylor, who served in the Air Force, is already serving a life sentence for premeditated murder, burglary and larceny, Wray said.

Willis' trial is scheduled for July 12.

OVERLAND PARK

Man stabbed

A 61-year-old Menorah Medical Center employee who was stabbed Tuesday night was to be released from the hospital Wednesday, police said.

The victim, an Overland Park resident, was walking out of an employee exit about 7:30 p.m. when a man demanded his car keys. The man stabbed him in the chest and face with a utility knife and ran. The victim walked back into the hospital's emergency room.

Police have video footage of the crime. Anyone with information should call the TIPS Hotline at 474-TIPS (474-8477) or Overland Park police at 327-6950. Calls will remain confidential.

LENEXA

Transformer fire

A fire started in an electrical transformer early Wednesday at a substation at 95th Street and Loiret Boulevard.

Firefighters used foam to control the blaze, which was extinguished about 3 a.m. No one was injured, said Lenexa Fire Lt. Roger Brennan.

About 4,000 customers were without power for several hours, but everyone had power by 4 a.m., said Pam Levetzow, a Kansas City Power & Light Co. spokeswoman.

The damage was confined to the transformer. If the equipment cannot be repaired, it could cost up to \$750,000 to replace it, Levetzow said.

AREA HIGHWAYS

Bridge work

The two left lanes of northbound Interstate 35 in Johnson County will be restricted from Johnson Drive to Antioch



Road from 8:30 a.m. to 3:30 p.m. today.

Crews will remove forms that were used to build the new Antioch Road bridge.

Stopped traffic

A flag crew will stop traffic intermittently beginning at 8:30 a.m. today on northbound Metcalf Avenue at Shawnee Mission Parkway. Crews will stop traffic while steel is lifted into place on a bridge under construction.

JOHNSON COUNTY

Library budget

The Johnson County Library Board approved a \$17.1 million budget for 2000 at Wednesday's meeting. Board members unanimously backed a proposal that would spare the library from \$720,000 in budget cuts.

The Johnson County Commission still must consider the library budget. Final approval is scheduled for August.

A previous library budget proposal of \$16.2 million would have closed all library locations on Sundays and on Thursday nights.

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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 21st day of May, 1999.


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