

11/25

B ✓  
Ro  
CO  
vw

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

In the Matter of the Joint Application of )  
Western Resources, Inc. and Kansas City )  
Power & Light Company for Approval of the )  
Merger of Kansas City Power & Light Company )  
with Western Resources, Inc. and Other )  
Related Relief. )

**Case No. EM-97-515**

**ORDER ADOPTING PROCEDURAL SCHEDULE**

On May 30, 1997, Western Resources, Inc. (Western Resources) and Kansas City Power & Light Company (KCPL), collectively referred to as the joint applicants, filed an application with the Commission requesting an order approving the merger of KCPL with Western Resources and for other related relief.

On November 6 the joint applicants, the Staff of the Commission (Staff) and the Office of the Public Counsel (OPC) filed a motion proposing a procedural schedule for the hearing of this matter. The movants suggest the following procedural schedule:

Joint Applicants file Supplemental Direct Testimony regarding Market Power Issues	December 15, 1997 3:00 p.m.
Staff, OPC and Intervenors file Rebuttal Testimony	April 28, 1998 3:00 p.m.
Joint Applicants file Surrebuttal and other Parties' Cross-Surrebuttal	May 19, 1998 3:00 p.m.
Prehearing Conference	May 26-29, 1998
Hearing Memorandum	June 12, 1998

Evidentiary Hearing

June 22-26, 1998  
(10:00 a.m. first  
day; 9:00 a.m. all  
subsequent days)

No other responses to the joint motion were filed.

The Commission finds the proposed schedule to be reasonable and will adopt the proposed dates in modified form. The briefing schedule will be set by the presiding officer at the conclusion of the evidentiary hearing. The following conditions shall apply to this proceeding:

(1) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(2) Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party that considers information to be proprietary or highly confidential should request a protective order. Any testimony or schedule filed without a protective order first being established shall be considered public information.

(3) The parties shall file a hearing memorandum setting out the issues to be heard and the witnesses to appear on each day of the hearing, definitions of essential terms, each party's position on the disputed issues, and the order of cross-examination. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be

viewed as uncontested and not requiring resolution by the Commission. Staff will be responsible for preparing and filing the hearing memorandum.

(4) The Commission emphasizes the importance of filing the hearing memorandum on the date set by the Commission. Each party is directed to provide Staff with its position on each unresolved issue no later than January 8, 1998. Staff is not responsible for including in the memorandum the positions of the parties that are not submitted when due.

(5) Nothing in this order shall preclude a party from addressing, or having a reasonable opportunity to address, matters not previously disclosed and arising at the hearing.

(6) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the regulatory law judge at least five days prior to the date of the hearing.

(7) The Commission states it is appropriate to limit the length of initial briefs to 30 pages and reply briefs to 15 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. The briefs to be submitted by the parties shall follow the same format established in the hearing memorandum. Initial briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(8) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law

Evidentiary Hearing

June 22-26, 1998  
(10:00 a.m. first  
day; 9:00 a.m. all  
subsequent days)

No other responses to the joint motion were filed.

The Commission finds the proposed schedule to be reasonable and will adopt the proposed dates in modified form. The briefing schedule will be set by the presiding officer at the conclusion of the evidentiary hearing. The following conditions shall apply to this proceeding:

(1) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(2) Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party that considers information to be proprietary or highly confidential should request a protective order. Any testimony or schedule filed without a protective order first being established shall be considered public information.

(3) The parties shall file a hearing memorandum setting out the issues to be heard and the witnesses to appear on each day of the hearing, definitions of essential terms, each party's position on the disputed issues, and the order of cross-examination. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be

viewed as uncontested and not requiring resolution by the Commission. Staff will be responsible for preparing and filing the hearing memorandum.

(4) The Commission emphasizes the importance of filing the hearing memorandum on the date set by the Commission. Each party is directed to provide Staff with its position on each unresolved issue no later than January 8, 1998. Staff is not responsible for including in the memorandum the positions of the parties that are not submitted when due.

(5) Nothing in this order shall preclude a party from addressing, or having a reasonable opportunity to address, matters not previously disclosed and arising at the hearing.

(6) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the regulatory law judge at least five days prior to the date of the hearing.

(7) The Commission states it is appropriate to limit the length of initial briefs to 30 pages and reply briefs to 15 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. The briefs to be submitted by the parties shall follow the same format established in the hearing memorandum. Initial briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(8) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law

judge, and opposing counsel.

**IT IS THEREFORE ORDERED:**

1. That the following procedural schedule is adopted for use in this case:

Joint Applicants file Supplemental Direct Testimony regarding Market Power Issues	December 15, 1997 3:00 p.m.
Staff, OPC and Intervenors file Rebuttal Testimony	April 28, 1998 3:00 p.m.
Joint Applicants file Surrebuttal and other Parties' Cross-Surrebuttal	May 19, 1998 3:00 p.m.
Prehearing Conference	May 26-29, 1998
Hearing Memorandum	June 12, 1998
Evidentiary Hearing	June 22-26, 1998 (10:00 a.m. first day; 9:00 a.m. all subsequent days)

The prehearing conference and hearing will be held in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Any person with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

2. That this order shall become effective on (issue date),  
1997.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Joseph A. Derque III, Regulatory Law  
Judge, by delegation of authority  
pursuant to 4 CSR 240-2.120(1),  
(November 30, 1995) and Section 386.240,  
RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 25th day of November, 1997.