

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

In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service.)	Case No. ER-2012-0174
)	
In the Matter of KCP&L Greater Missouri Operations Company's Request for Authority to Implement a General Rate Increase for Electric Service.)	Case No. ER-2012-0175
)	

**RESPONSE OF KANSAS CITY POWER & LIGHT COMPANY AND
KCP&L GREATER MISSOURI OPERATIONS COMPANY
TO STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION AND
MIDWEST ENERGY CONSUMER'S GROUP**

Kansas City Power & Light Company ("KCP&L") and KCP&L Greater Missouri Operations Company ("GMO") (collectively referred to as "Companies") state as follows in response to the January 15, 2013 statements made by Staff of the Missouri Public Service Commission ("Staff") and the Midwest Energy Consumers' Group ("MECG") in support of the January 11, 2013 Motion for Reconsideration of the Office of the Public Counsel ("OPC"):

I. The Commission Is Obligated to Set Just and Reasonable Rates Within the Statutory Timeframe.

1. Contrary to the statement of MECG, the Companies would be shocked if their compliance tariffs were not approved within the deadline set by Section 393.150. See MECG's Response to OPC Motion for Reconsideration ("MECG Response") at 4. Not only does Missouri law require that the Commission approve the Companies' compliance tariffs within that statutory deadline, but there is absolutely no reason for the Companies' compliance tariffs to "take longer than those for other utilities." Id. Indeed, in Ameren Missouri's recent and equally complex rate case, the Commission approved that utility's compliance tariffs within the statutory deadline, after Staff took a mere four days to review and make its recommendation on Ameren Missouri's compliance tariffs.

2. In that case, the Commission approved Ameren's compliance tariffs on December 27, 2012 with an effective date of January 2, 2013, finding that "[e]xpedited approval of the tariff is appropriate because the Commission has found that the rates resulting from its report and order are just and reasonable and Ameren Missouri should not be required to wait to implement those rates." See In re Union Elec. Co. Tariff to Increase Annual Revenues for Elec. Serv., Case No. ER-2012-0166, Order Approving Compliance Tariffs at 2 (Dec. 27, 2012). Any unnecessary and avoidable delay in reviewing and approving KCP&L's and GMO's compliance tariffs is manifestly unjust.

3. Without citing to any authority, Staff asserts that the Commission "is not required by law to approve to go into effect by January 26, 2013, new tariff sheets to implement rate increases and other changes the Commission authorized in its January 9, 2013, Report and Order in these cases." See Staff's Response to Public Counsel's Motion for Consideration ("Staff Response") at 1. MECG agrees, stating "the Commission has fulfilled its statutory obligation with regard to KCPL and GMO's originally filed set of tariff sheets." See MECG Response at 2.

4. Staff and MECG's position that, by rejecting KCP&L's and GMO's proposed tariffs, the Commission has fulfilled its Section 393.150 statutory obligation to decide rates "as speedily as possible" renders the deadlines imposed in that statute meaningless and misconstrues the role compliance tariffs play in the ratemaking process. Were the Commission to adopt Staff and MECG's interpretation of the Section 393.150 deadlines as merely setting the time within which the Commission must reject or accept only those rates proposed by a utility, the Commission would be bound by no timeline within which to actually fix just and reasonable rates. Such construal of the statute would give no meaning to the deadlines imposed therein -- if the Commission has eleven months to reject tariffs and an unlimited time thereafter to set just and reasonable rates, why have a period of tariff suspension at all?

5. Furthermore, Section 393.140, to which MECG cites in support of its proposition that a review of compliance tariffs should take thirty days, contemplates a review of *new* tariffs, not of compliance tariffs. That section provides that no change shall be made in any rate or charge that is filed with the Commission pursuant to a prior order or decision of the Commission except after thirty days notice and publication, unless the Commission otherwise orders. See Section 393.140(11). In these cases, KCP&L and GMO filed tariffs on February 27, 2012 seeking to change rates on file with the Commission that were ordered in their last rates cases, Nos. ER-2010-0355 and ER-2010-0356. Far more than thirty days have passed since the February 27, 2012 filing of the Companies' proposed rates. The compliance tariffs to be filed are not new tariffs; rather, they merely implement the just and reasonable rates that have been fully litigated and fixed by the Commission. Thus, Section 393.140 lends no support to Staff and MECG's position.

6. The Missouri Supreme Court case MECG cites at page 3 of its Response, State ex rel. Office of the Public Counsel v. PSC, 236 S.W.3d 632, 635-37 (Mo. en banc 2007) equally lends no support. In that case, the Missouri Supreme Court held that the Commission abused its discretion in allowing only one hour and 20 minutes to file an application for rehearing, finding that such a short time was not reasonable. Those facts stand in sharp contrast to this case, where several days have been provided.

7. Nor did the Missouri Supreme Court's decision in that case affect the Commission's determinations toward the conclusion of GMO's last rate case, No. ER-2010-0356. In GMO's last rate case, the Commission suspended the Company's tariffs until June 18, 2011 largely because the Commission determined on May 27, 2011 that a portion of GMO's rate increase will be phased-in over time. This determination modified the Commission's May 4, 2011 Report and Order, following a May 26, 2011 on-the-record question and answer session on

the phase-in issue. The Commission on June 2, 2011 suspended GMO's tariffs because it "may need to clarify its order further to be clear about what the Commission intended to be 'carrying costs'" of the phased-in rates, and "to allow additional time for objections and to review the phase-in tariffs." See Case No. ER-2010-0356, Order Suspending Tariff Sheets and Directing Filing at 2-3 (June 2, 2011). Those objections had to do with the phase-in and carrying costs. See id., OPC's and AGP's June 2, 2011 Objections to Tariffs. The Commission further suspended GMO's tariffs because "additional issues have arisen with that phase-in and the Commission is still reviewing the actual rates such a phase-in will cause the L&P ratepayers." See id., Order Further Suspending Tariff Sheets at 3 (June 10, 2011). In other words, the Commission suspended GMO's tariffs past the June 4, 2011 operation of law date in that case due to the confusion that surrounded its recent order on the phase-in that followed its Report and Order.

8. There are no outstanding issues, and thus no similar cause for delay exists, in the present cases. Because the Commission has already found that the Companies' revenues are deficient, good cause exists to make the Companies' compliance tariffs effective on or before the operation of law date in these cases.

II. The Review Period Set by the Commission is Reasonable, as Staff is Already Working With the Companies on Their Compliance Tariffs and the Resources of the Parties Have Not Been Overwhelmed.

9. Both Staff and MECG complain of the "amount of work involved in a tariff review in these cases." See MECG Response at 1-2; Staff Response at 1. However, as Staff admits, "Staff is already working with KCPL and GMO on tariff sheets." See Staff Response at 1. Staff's review, therefore, will not be a fresh review of previously unseen compliance tariffs once formally submitted. No other party has been ordered to review the compliance tariffs. Additional time thus is gratuitous, and likely would result in an unjust and manifestly unfair and

avoidable delay in setting just and reasonable rates. Staff recently was able to promptly review and provide its recommendation on the compliance tariffs filed by Ameren Missouri within four days of their submission, ahead of the Christmas Eve deadline scheduled by the Commission in Ameren Missouri's recent rate case, No. ER-2012-0166.

10. Finally, MECG resurrects an issue that the Commission dismissed almost a year ago -- that the timing of the rate cases with Ameren's rate case disadvantages the parties. First, MECG mischaracterizes Chairman Gunn's January 17, 2012 letter. As Chairman Gunn recognized in his letter, there are "a number of valid reasons guiding a utility when it files notice of a major case." See Case Nos. ER-2012-0174 and ER-2012-0175, Letter from Chairman Kevin Gunn (Jan. 17, 2012). As indicated in KCP&L's January 25, 2012 letter to Chairman Gunn, the Companies base their rate case filings solely on their financial needs and potential impact on customers. See id., Letter to Chairman Gunn (Jan. 25, 2012). The timing of another company's regulatory filings does not impact the timing of the Companies' rate case filings. In his February 1, 2012 letter, the Chairman thanked the Company for its thoughtful consideration, accepted the Company's response to his January 17, 2012 letter, and indicated that he would take no further action. See id., Chairman Gunn's Reply to KCPL's Response (Feb. 1, 2012). There is no basis in the Chairman's statements for MECG's assertion that the Companies' choice of filing date overwhelmed the resources of Staff, OPC, or any other intervenor.

11. Furthermore, MECG's unsupported and inflammatory assertion that the resources of the parties are overwhelmed is without merit since the Ameren tariffs have already been reviewed by the parties and approved by the Commission. Staff also indicated in its Response to OPC's motion that it has adequate time to review the compliance tariffs under the Commission's schedule. See Staff Response at 1-2.

III. Conclusion.

12. Compliance tariffs are neither “an entirely new tariff filing” nor “a new request” for a rate increase, but rather are an ordered filing to institute rates the Commission has determined to be just and reasonable. It is reasonable for the Commission to order a shortened review period of such tariffs so that it may meet its eleven-month statutory deadline.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing was served upon counsel of record on this 16th day of January, 2013.

/s/ Lisa A. Gilbreath
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