



Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
http://www.ecodev.state.mo.us/psc/

December 20, 1999

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. KOLLIS
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

Commissioners
SHEILA LUMPE
Chair
HAROLD CRUMPTON
CONNIE MURRAY
ROBERT G. SCHEMENAUER
M. DIANNE DRAINER
Vice Chair

FILED 2

DEC 20 1999

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. EO-2000-210

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of an UNANIMOUS STIPULATION AND AGREEMENT.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

[Handwritten signature of Lera L. Shemwell]

Lera L. Shemwell
Assistant General Counsel
(573) 751-7431
(573) 751-9285 (Fax)

LLS:sw
Enclosure
cc: Counsel of Record

FILED²

DEC 20 1999

Missouri Public Service Commission

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

In the Matter of the Application of Kansas)
City Power & Light Company for Approval)
of the Accrual and Funding of Wolf Creek)
Generating Station Decommissioning Costs)
at Current Levels.)

Case No. EO-2000-210

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW Kansas City Power & Light Company (KCPL), the Staff of the Missouri Public Service Commission (Staff), and the Office of the Public Counsel (Public Counsel), and submit this Unanimous Stipulation And Agreement to the Missouri Public Service Commission (Commission) in resolution of Case No. EO-2000-210.

INTRODUCTION

The Legislature provided, in § 393.292 RSMo 1994,¹ that the Commission may authorize changes to the rates and charges of an electrical corporation as a result of a change in the level or annual accrual of funding necessary for its nuclear power plant decommissioning trust fund. This statute creates a narrow exception to the general requirement that the Commission must consider "all relevant factors," prior to changing any rate charged by a utility under its jurisdiction. State ex. rel. Utility Consumers Council of Missouri, Inc. v. Public Serv Comm'n., 585 S.W.2d 41 (Mo. banc 1979). Under Section 393.292, the Commission may limit its review in nuclear decommissioning trust fund cases

¹ All statutory references are to Revised Statutes of Missouri 1994, unless otherwise noted.

to only those factors relevant to the funding level or accrual rate of the trust fund when deciding matters related to the rates and charges associated with that fund. Further, Section 393.292 gives the Commission authority to adopt rules and regulations governing the procedures associated with these tariff changes as well as to ensure that the amounts contained in the trust funds will be neither “greater nor lesser than the amounts necessary to carry out the purposes of the trust.” In Case No. EX-90-110, the Commission adopted the original decommissioning rule, 4 CSR 240-20.070 Decommissioning Trust Funds. This rule requires that on or before September 1, 1990, and every three years thereafter, electric utilities with nuclear generating units shall file cost studies with the Commission.² Those cost studies must include the utility’s latest estimates for the cost of decommissioning their nuclear facility, along with trust funding levels necessary to meet these costs.

KCPL established a decommissioning trust fund as a result of its Wolf Creek Generating Station (Wolf Creek). Re Kansas City Power & Light Co., Case Nos. EO-85-185 and EO-85-224, 28 Mo.P.S.C. (N.S.) 228 (1986). KCPL owns 47 percent of Wolf Creek and approximately 60 percent of KCPL's 47 percent ownership share is allocated to KCPL's Missouri retail operations.

There are currently two Stipulation And Agreements in effect that address the issue of the funding level for decommissioning KCPL’s Wolf Creek nuclear power plant. One of these Stipulation And Agreements specifically relates to KCPL’s instant filing. A Stipulation

² 4 CSR 240-20.070(9)(1993).

And Agreement among Staff, Public Counsel and KCPL was filed in Case No. ER-99-313³ on January 26, 1999, and a Stipulation And Agreement among Staff, Public Counsel, KCPL and Western Resources, Inc. was filed in Case No. EM-97-515⁴ on July 19, 1999. The Case No. ER-99-313 Stipulation And Agreement, which was approved by the Commission on April 13, 1999, includes paragraph 5 that states:

The specified period when the signatories to this Stipulation And Agreement will not request, or encourage or assist in any request for, a general increase or decrease in KCPL's Missouri electric rates, rate credits or rate refunds respecting KCPL's Missouri electric rates shall also apply to any filing with the Commission for a change in KCPL's electric rates pursuant to Section 393.292 RSMo 1994 to reflect a change in the projected level or annual accrual of funding for decommissioning the Wolf Creek nuclear power plant. Signatories shall request that the Commission include in KCPL's 1999 decommissioning Report and Order, language substantially similar to that used in other such nuclear decommissioning funding Report and Orders, that the Wolf Creek decommissioning costs are included in KCPL's current cost of service and are reflected in its current electric service rates for ratemaking purposes.

The Stipulation And Agreement in the KCPL / Western Resources, Inc. merger case, EM-97-515, includes substantially similar language, except that the language refers to "Westar's" Missouri electric rates.⁵

³ In the Matter of the Stipulation And Agreement Reducing the Annual Missouri Retail Electric Revenues of Kansas City Power & Light Company. KCPL reduced its annual Missouri retail electric revenues 3.2% or approximately \$15 million.

⁴ 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.

⁵ The language reads: "The specified period when the signatories to this Stipulation And Agreement will not request, or encourage or assist in any request for, a general increase or decrease in KCPL's Missouri electric rates, rate credits, or rate refunds respecting Westar's Missouri electric rates shall also apply to any filing with the Commission for a change in Westar's Missouri electric rates pursuant to Section 393.292 RSMo 1994 to reflect a change in the projected level or annual accrual of funding for decommissioning the Wolf Creek nuclear power plant. Signatories shall request
(continued...)"

THE COST STUDY

On September 1, 1999, in compliance with 4 CSR 240-20.070, KCPL filed an Application for Approval of the Accrual and Funding of Wolf Creek Decommissioning Costs at Current Levels. Attached to KCPL's Application is the required cost study detailing its latest estimate for the cost to decommission Wolf Creek (1999 Study). The cost study was prepared for the Wolf Creek Nuclear Operating Corporation by TLG Services, Inc., of Bridgewater, Conn.

A Motion to Amend Kansas City Power & Light Company's Application for Approval of the Accrual and Funding of Wolf Creek Generating Station Decommissioning Costs at Current Levels was filed with the Commission on December 14, 1999. This amendment corrects an inaccurate assumption that only the land and right of way would be subject to property taxes. The Amendment assumes that some of the buildings will continue in use and therefore, be subject to property taxes. This correction resulted in an increase in the estimated property taxes from \$608,537 to \$3,885,197. The overall cost of decommissioning changed to reflect the increase of \$3,276,679 in estimated property taxes.

⁵(...continued)

that the Commission include in any Westar Wolf Creek decommissioning Report and Order, language substantially similar to that used in other nuclear decommissioning funding Report and Orders, that the Wolf Creek decommissioning costs are included in Westar's current cost of service and are reflected in its current electric service rates for ratemaking purposes."

Three decommissioning options were examined by KCPL: (a) DECON,⁶ (b) SAFSTOR,⁷ and (c) ENTOMB.⁸ All three alternatives are acceptable to the Nuclear Regulatory Commission (NRC). For the purposes of the study, the final shutdown date of Wolf Creek is projected as March 11, 2025. Based on the TLG analysis, KCPL has concluded that its current funding level should result in a final decommissioning trust fund amount that is sufficient to cover the costs estimated in its decommissioning cost study. KCPL believes that the 1999 Study is based on a reasonable set of economic, financial and investment assumptions. Consequently, KCPL does not seek any changes to its funding level, and asks the Commission to approve the current funding level amount, which is consistent with the Stipulation And Agreement in Case No. ER-99-313.

⁶ DECON assumes decontaminating and decommissioning (D&D) immediately following conclusion of power operations in 2025, when the 40 year operating license expires. Work is anticipated to be completed by 2034. DECON consists of removal of fuel assemblies, source material, radioactive fission and corrosion products, and other radioactive materials immediately after cessation of power operations. Total cost to decommission in 1999 dollars is \$467,190,000.

⁷ SAFSTOR places the facility in protective storage once spent fuel and source material are removed. Delayed decontamination and dismantling activities are initiated such that license termination is accomplished within the 60-year time period set by the NRC. This process is anticipated to be completed by 2087. Total cost to decommission in 1999 dollars is \$590,444,000.

⁸ ENTOMB places the facility in protective storage. Initial activities include: removing contaminated components, systems, and structures outside the designated entombment boundary, and sealing the remaining radioactivity within the reactor containment building. This process is restricted in overall duration to 60 years and is anticipated to be completed by 2087. Total cost to decommission in 1999 dollars is \$671,044,000.

STIPULATIONS AND AGREEMENTS

The Parties to this case have reached certain understandings so that the Staff, KCPL, and Public Counsel stipulate and agree as follows:

1. KCPL's Missouri retail jurisdiction annual decommissioning expense accrual and trust fund payment was set by the Commission at \$2,303,856, first in Case No. EO-91-84, Re Kansas City Power & Light Co., 1 Mo.P.S.C.3d 353 (1992), again in Case No. EO-94-80, Re Kansas City Power & Light Co., 3 Mo.P.S.C.3d 60 (1994) and again in Case No. EO-97-84.⁹ KCPL took the position in Case No. EO-94-80 that it was reasonable to continue the annual accruals at the 1992 level because of, among other things, changes in federal tax law and corresponding changes in state regulations that permit decommissioning trust funds to achieve higher earnings.¹⁰

⁹ In 1985 in KCPL's Wolf Creek rate case, KCPL and the Staff stipulated that the decommissioning cost of Wolf Creek was \$103,330,000 in 1985 dollars. As a result of the Commission's Wolf Creek Report And Order, KCPL's Missouri jurisdictional annual trust fund payment requirement was set at \$803,000. Re Kansas City Power & Light Co., Case Nos. EO-85-185 and EO-85-224, 28 Mo.P.S.C. (N.S.) 228, 276-78 (1986). In Case No. EO-91-84, KCPL's first filing pursuant to 4 CSR 240-20.070, a Unanimous Stipulation And Agreement was accepted by the Commission which identified the cost in 1990 dollars to immediately decommission Wolf Creek, as if it had completed 40 years of service, as being \$347,000,000 and set KCPL's Missouri retail jurisdiction annual trust fund accrual and payment requirement as \$2,303,856. The great increase in the cost estimate was due principally to a major increase in the projected cost of disposal facilities for low-level radioactive waste. (Low-level radioactive waste should not be confused with high-level radioactive waste and spent nuclear fuel. The federal fee which is collected with each kilowatt hour of electricity generated by Wolf Creek, and the recent federal litigation against the Department of Energy which this Commission was a party to along with many other states, relates to disposal facilities for high-level radioactive waste and spent nuclear fuel, not disposal facilities for low-level radioactive waste.)

¹⁰ Section 1992 of the Energy Policy Act of 1992 (EPACT) lifted the stringent decommissioning trust fund rule to permit a maximum investment in equity securities of 65 percent of the decommissioning trust fund's book value for tax-qualified and non-tax qualified trust assets. Section 1917 of EPACT reduced the federal income tax rate on certain investment earnings of decommissioning trusts from the regular corporate federal income tax rate of 34 percent to 22 percent for 1994 and 1995, and 20 percent commencing in 1996. The Commission's amendment of its decommissioning rule placed more restrictions on self-dealing and prohibits the trust from holding investments of affiliated companies associated with the trust or the utility.

2. The accrual schedule in Case No. EO-94-80 (1993 Accrual Schedule) projected that the \$369,789,856 decommissioning cost estimate would escalate to approximately \$422,000,000 in 1996 dollars for the DECON alternative. The 1996 KCPL Study estimated the decommissioning cost to be \$408,887,000 in 1996 dollars for DECON. This difference was the result of a lower inflation rate than KCPL projected. KCPL took the position in Case No. EO-97-84 that since the 1996 study estimate of \$408,887,000 was reasonably close to the 1996 decommissioning cost projection in the 1993 Accrual Schedule of \$422,000,000, it would be reasonable and prudent to continue the annual accrual at the \$2,303,856 level.

3. The 1993 Accrual Schedule in Case No. EO-94-80 projected that the 1993 decommissioning cost of \$370,000,000 would escalate to approximately \$482,000,000 in 1999 dollars. The 1999 Study estimates the decommissioning cost to be \$470,000,000 in 1999 dollars. KCPL deems the current decommissioning cost estimate of \$470,000,000 to be reasonably close to the decommissioning cost projection in its 1993 Accrual Schedule. KCPL believes that it is reasonable and prudent to continue the annual accruals at the current level of \$2,303,856, the current Missouri jurisdictional amount. Thus, KCPL's Application asks that the Commission approve the continuation of the annual accrual at the current level.

4. To proceed in the manner requested by KCPL would be consistent with the Stipulation And Agreements in Case Nos. ER-99-313 and EM-97-515.

5. KCPL shall continue its Missouri retail jurisdiction expense accruals and trust fund payments at current levels without any change in its Missouri retail jurisdictional rates.

6. KCPL, the Staff and Public Counsel agree that such decommissioning costs are included in KCPL's current cost of service and are reflected in its current rates for ratemaking purposes and request that this be specifically recognized in the Commission's Report And Order.

7. KCPL or its trustee shall file on a prospective basis in the instant docket one copy of the quarterly reports required by 4 CSR 240-20.070(5) and one copy of the annual reports required by 4 CSR 240-20.070(6). Payments to the trustee of the external trust fund are made on a quarterly basis in the month following the end of the quarter to which the payment applies.

8. None of the parties to this Unanimous Stipulation And Agreement shall be deemed to have approved or acquiesced in any question of Commission authority, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence that may underlie this Unanimous Stipulation And Agreement for which provision is made in this Unanimous Stipulation And Agreement.

9. If the Commission does not unconditionally approve this Unanimous Stipulation And Agreement without modification, and notwithstanding its provision that it shall become void thereon, neither this Unanimous Stipulation And Agreement, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any party has to a hearing on the issues presented by the Unanimous Stipulation

And Agreement, for cross-examination, or for a decision in accordance with Section 536.080.1 RSMo or Art. V, § 18 Mo. Const., and the parties shall retain all procedural and due process rights as fully as though this Unanimous Stipulation And Agreement had not been presented for approval, and any testimony or exhibits that may have been offered or received in support of or in opposition to this Unanimous Stipulation And Agreement shall thereupon become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

10. To assist the Commission in its review of this Unanimous Stipulation And Agreement, the parties also request that the Commission advise them of any additional information that the Commission may desire from the parties related to the matters addressed in this Unanimous Stipulation And Agreement, including any procedures for furnishing such information to the Commission.

11. The Staff shall have the right to file suggestions or testimony in support of the Unanimous Stipulation And Agreement, and the other parties shall have the right to file responsive suggestions or prepared testimony. Any memoranda submitted shall not bind or prejudice the party submitting such memorandum in any future proceeding or in this proceeding whether or not the Commission approves this Unanimous Stipulation And Agreement. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Unanimous Stipulation

And Agreement, whether or not the Commission approves and adopts this Unanimous Stipulation And Agreement.

12. Because this is a Stipulation And Agreement with the sole purpose of addressing the authority requested by the Application of KCPL, except as specified herein, the parties to the Unanimous Stipulation And Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Unanimous Stipulation And Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve the Unanimous Stipulation and Agreement or in any way condition its approval of the same, except as stated herein. Because this is a Stipulation And Agreement, it shall not be cited as precedent or referred to in testimony as an assertion of the particular position of any party in any subsequent or pending judicial or administrative proceeding, except that this shall not be construed to prohibit reference to its existence in future proceedings, including proceedings to enforce compliance with its terms.

13. If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Unanimous Stipulation And Agreement. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission within five (5) days of receipt of the Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the

same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding, or bind or prejudice the party submitting such memoranda in any future proceeding, or in this proceeding whether or not the Commission approves this Unanimous Stipulation And Agreement. The contents of any memoranda provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Unanimous Stipulation And Agreement, whether or not the Commission approves and adopts this Unanimous Stipulation And Agreement.

14. The Staff shall also have the right to provide, at any agenda meeting at which this Unanimous Stipulation And Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosures, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

15. The decommissioning cost study of KCPL shall be received into evidence.

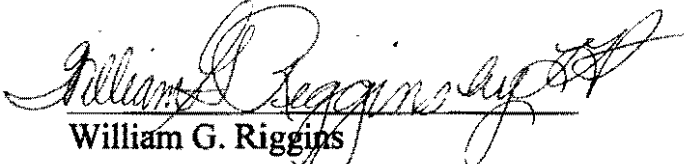
16. The provisions of this Unanimous Stipulation And Agreement have resulted from numerous discussions among the signatory parties and are interdependent. In the event that the Commission does not approve and adopt the terms of this Unanimous Stipulation And

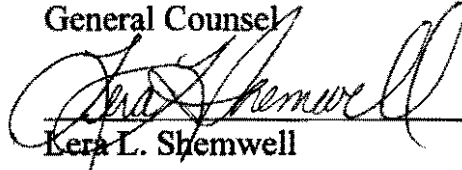
Agreement in total, it shall be void and no party hereto shall be bound by, prejudiced, or in any way affected by any of the agreements or provisions hereof unless otherwise provided herein.

17. In the event the Commission accepts the specific terms of this Unanimous Stipulation And Agreement, the signatories waive their respective rights to cross examine witnesses; their respective rights to present oral argument and written briefs pursuant to Section 536.080.1; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2; and their respective rights to judicial review pursuant to Section 536.510. This waiver applies only to a Commission Report And Order respecting this Unanimous Stipulation And Agreement issued in this proceeding and does not apply to any matters raised in any subsequent Commission proceeding, or in any matters not explicitly addressed by this Unanimous Stipulation And Agreement.

WHEREFORE, the signatories hereto request that the Commission (1) approve the instant Unanimous Stipulation And Agreement; (2) continue the annual accrual for the decommissioning trust at the current level of \$2,303,586; (3) receive the cost study into evidence; (4) specifically recognize in its Report And Order that Kansas City Power & Light Company's 1999 study meets the requirements of 4 CSR 240-20.070(9); (5) specifically recognize that Kansas City Power & Light Company's current decommissioning costs are included in its current cost of service and are reflected in its current rates for ratemaking purposes; and (6) direct that Kansas City Power & Light Company or its trustee file on a

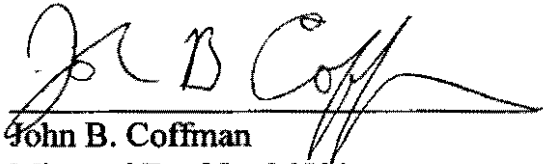
Respectfully submitted,


William G. Riggins
Missouri Bar No. 42501

DANA K. JOYCE
General Counsel

Kera L. Shemwell
Missouri Bar No. 43792


Gerald A. Reynolds
Connecticut Bar No. 407871
Attorneys for
Kansas City Power & Light Company
P.O. Box 418679
Kansas City, MO 64141-9679
816-556-2645
816-556-2787 (Fax)

Steven Dottheim
Missouri Bar No. 29149
Attorneys for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
573-751-7489
573-751-9285 (Fax)


John B. Coffman
Missouri Bar No. 36591
Attorney for the
Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
573-751-5565
573-751-5562 (Fax)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all Counsel of record as shown on the attached service list this 20th day of December 1999.



Lara L. Shemwell

**Service List for
Case No. EO-2000-210
Revised: December 20, 1999**

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

William G. Riggins/Gerald A. Reynolds
Kansas City Power & Light Company
1201 Walnut, PO Box 418679
Kansas City, MO 64106