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April 12, 2000

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 3660
Jefferson City, Missouri 65102

FILED²
APR 12 2000
Missouri Public
Service Commission

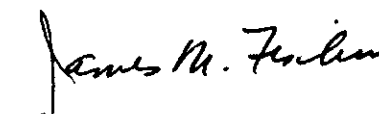
RE: *GS Technology Operating Company, d/b/a GST Steel Company*
Case No. EC-99-553

Dear Mr. Roberts:

Pursuant to the Commission's April 10, 2000, Order Directing Filing, the Commission directed the parties to file on or before noon on April 12, 2000, a Position Statements in pleading form following the List of Issues previously filed in this matter. Enclosed are the original and fourteen (14) copies of the Kansas City Power & Light Company's Position Statement for filing in the above-referenced matter. The enclosed Position Statement is also be transmitted electronically to presiding officer at ktomp099@mail.state.mo.us.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,


James M. Fischer

/jr
Enclosures

cc: Paul S. DeFord
James W. Brew
Christopher C. O'Hara
Dana K. Joyce
Steve Dottheim
Lera L. Shemwell
John B. Coffman

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

APR 12 2000

Missouri Public
Service Commission

GS Technology Operating Company,)
d/b/a GST Steel Company,)
Complainant,)
v.)
Kansas City Power & Light Company,)
Respondent.)

Case No. EC-99-553

Kansas City Power & Light Company's Statement of Position

COMES NOW Kansas City Power & Light Company ("KCPL"), and for its Statement of Position, states as follows:

1. On February 17, 2000, the Commission issued its Order Concerning Show Cause Hearing in this matter in which it directed the parties to file, on or before April 13, 2000, a Statement of Position.

2. The parties have identified the following issues to be determined herein by the Commission:

- a) Have the charges imposed under the GST/KCPL Special Contract been "just and reasonable" over the period of the contract?

KCPL Position: Yes. The charges billed to GST by KCPL have been established pursuant to the terms of the GST/KCPL Special Contract, and are "just and reasonable." The GST/KCPL Special Contract was approved by the Commission in Re A Special Contract Filed By Kansas City Power & Light

Company, Case No. EO-95-67. Pursuant to the terms of the GST/KCPL Contract, GST has received its electric service at rates that are substantially less than the Commission-approved tariffs that would otherwise apply to GST's service. In the event that the Commission determines that the charges imposed under the GST/KCPL Special Contract are too low, and therefore longer "just and reasonable," then the Commission should order that KCPL bill GST using the applicable rates in KCPL's Large Power tariff which have been previously approved by the Commission.

- b) Has KCPL properly accounted for the insurance proceeds that it has received as a result of the Hawthorn Incident?

KCPL Position: Yes. KCPL has properly accounted for the insurance proceeds according to the accounting procedures mandated by the Uniform System of Accounts. As conceded by GST witness Steven Carver in his Surrebuttal Testimony, his testimony criticizing KCPL's accounting practices contained in his Direct Testimony "reached an incorrect conclusion." See Surrebuttal Testimony of Steven C. Carver, p. 14.

- c) Does the Commission have the authority to order KCPL to pay GST insurance proceeds received by KCPL as a result of the explosion of the Hawthorn plant? If so, is it reasonable and appropriate to do so?

KCPL Position: No. The Commission has no statutory authority to require KCPL to pay GST insurance proceeds received by KCPL as a result of the

explosion of the Hawthorn plant. Such action would be the same as awarding GST monetary damages which is beyond the statutory authority of the Commission.

In its November 2, 1999, Order Regarding Kansas City Power And Light Company's First Motion To Compel Discovery, the Commission clearly enunciated its role in this proceeding and the nature of its authority:

The Public Service Commission "is purely a creature of statute" and its "powers are limited to those conferred by the [Missouri] statutes, either expressly, or by clear implication as necessary to carry out the powers specifically granted." State ex rel. Utility Consumers' Council of Missouri, Inc. v. Public Service Commission, 585 S.W.2d 41, 47 (Mo.banc 1979); State ex rel. City of West Plains v. Public Service Commission, 310 S.W.2d 925, 928 (Mo.banc 1958). While the Commission properly exercises "quasi judicial powers" that are "incidental and necessary to the proper discharge" of its administrative functions, its adjudicative authority is not plenary. State Tax Commission v. Administrative Hearing Commission, 641 S.W.2d 69, 75 (Mo. 1982), *quoting* Liechty v. Kansas City Bridge Co., 162 S.W.2d 275, 279 (Mo. 1942). "Agency adjudicative power extends only to the ascertainment of facts and the application of existing law thereto in order to resolve issues within the given area of agency expertise." State Tax Commission, *supra*.

The Public Service Commission Act is a remedial statute and thus subject to liberal construction; however, "neither convenience, expediency or necessity are proper matters for consideration in the determination of whether or not an act of the commission is authorized by the statute." *Id.*, *quoting* State ex rel. Kansas City v. Public Service Commission, 301 Mo. 179, 257 S.W. 462 (banc 1923). The Commission is without authority to award money to either GST or KCPL, American Petroleum Exchange v. Public Service Commission, 172 S.W.2d 952, 955 (Mo. 1943), or to alter their special contract. May Department Stores Co. v. Union Electric Light & Power Co., 341 Mo. 299, 107 S.W.2d 41, (Mo. 1937).

- d) Does the Commission have the authority to order KCPL to re-calculate GST's bills under the contract? If so, how should those bills be recalculated (*i.e.*, by using KCPL's

incremental costs as if Hawthorn continued to operate)? Is it reasonable and appropriate to do so?

KCPL Position: No. While the Commission has the authority to order technical billing errors to be corrected, it does not have the statutory authority to order KCPL to re-calculate GST's bills when those bills were properly calculated according to the terms of the contract. The Commission has no authority to grant equitable relief to GST. The Commission therefore has no authority to require KCPL to re-calculate the GST bills, using KCPL's hypothetical costs, assuming that Hawthorn had continued to operate. In any event, it would not be reasonable or appropriate to re-calculate the GST bills in this matter since these bills were properly calculated under the terms contained in the GST/KCPL Special Contract.

e) Has KCPL operated and maintained its generation units in a reasonable and prudent manner?

KCPL Position: Yes. KCPL has operated and maintained its generation units in a reasonable and prudent manner. KCPL has met or exceeded industry standards when considering accepted performance criteria, including equivalent availability factors, forced outage rates, operating and maintenance cost standards, fuel costs, and significant outage incidents.

f) Has KCPL operated and maintained its distribution and transmission facilities in a reasonable and prudent manner?

KCPL Position: Yes. KCPL has operated and maintained its distribution and transmission facilities in a reasonable and prudent manner. As explained by KCPL witness Bier, KCPL has worked closely with GST personnel to

improve the distribution service received by GST, and otherwise address any concerns regarding its transmission and distribution services.

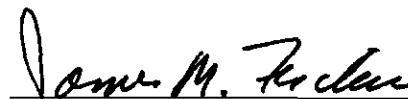
- g) Should the Commission order a formal Staff investigation into the operation and maintenance of KCPL's generation, transmission and distribution facilities?

KCPL Position: No. There is no competent and substantial evidence in the record that would justify the expenditure of Staff resources to formally investigate the operation and maintenance of KCPL's generation, transmission or distribution facilities.

- h) Should the Commission delay any decision in this case pending the outcome of the Staff's independent and final report of the boiler explosion at Hawthorn 5?

KCPL Position: No. As the Complainant in this proceeding, GST has the burden of proof to demonstrate to the Commission that its allegations are true. Section 386.430. GST filed this Complaint in February, 1999, and KCPL has responded to each and every allegation, and demonstrated that GST's allegations have no merit. It would be unreasonable and an abuse of discretion for the Commission to delay any decision in this Complaint proceeding, pending the outcome of a review of the Hawthorn Incident.

Respectfully submitted,



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CERTIFICATE OF SERVICE

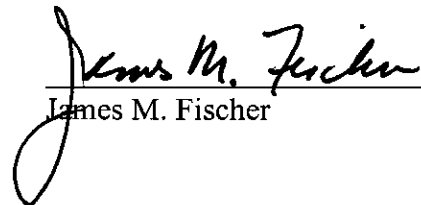
I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered or mailed, First Class mail, postage prepaid, this 12th day of April, 2000, to:

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