

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

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval to Make)	
Certain Changes in its Charges for Electric)	Case No. ER-2010-0355
Service to Continue the Implementation of)	
Its Regulatory Plan)	

In the Matter of the Application of)	
KCP&L Greater Missouri Operations)	Case No. ER-2010-0356
Company for Approval to Make Certain)	
Changes in its Charges for Electric Service)	

**MEUA’S PLEADING REGARDING
ORDER OF ISSUES, WITNESSES AND CROSS EXAMINATION**

COMES NOW the Midwest Energy Users Association (“MEUA”) and for its Pleading Regarding Order of Issues, Witnesses and Cross Examination respectfully states as follows:

1. On January 11, 2011, Staff and KCPL filed their pleadings regarding the appropriate schedule for the hearing which commences in this matter on January 18. At its core, the difference between the schedules advanced by Staff and KCPL is founded on KCPL’s desire to litigate the Iatan 2 cost and prudence issues on an accelerated basis. Specifically, while Staff proposes that these Iatan 2 issues should be tried during the week of January 24, KCPL suggests that these issues should be tried beginning on January 18. By this pleading, MEUA requests that the Commission adopt the schedule advanced by the Staff.

2. As an initial matter, Staff’s proposed schedule is clearly superior to that proposed by KCPL. Recognizing that KCPL was still filing surrebuttal as of January 5, it is not surprising that Staff is conducting depositions in an effort to deduce the basis for

and legitimacy underlying the opinions set forth in KCPL's surrebuttal testimony. Given that KCPL agreed to the procedural schedule which provided for this surrebuttal filing date, it should not be surprising to KCPL that Staff would be conducting these depositions. In fact, it is MEUA's understanding that KCPL is also conducting depositions of the Missouri Retailers Association witness during this same week.

On the other hand, discovery specific to the other issues in this case appears to be largely complete. As such, these other issues are completely developed and are immediately ready to be presented to the Commission without depriving any party of their due process rights.

3. Making it difficult for Staff to complete its audit or to present its findings to the Commission has become *modus operandi* for KCPL. In fact, while seeking to recover tens of millions of dollars of costs associated with one of its largest contractors, KCPL has repeatedly denied parties the opportunity to delve into the legitimacy of these costs. In fact, while hired to do largely non-legal work, KCPL has repeatedly asserted that Shiff Hardin work product is privileged. Effectively, KCPL has sought recovery for tens of millions of dollars while denying ratepayers any assurance that these costs were appropriate, beneficial or prudent.

4. Other KCPL efforts to stifle Staff's audits have been even more apparent. While agreeing in a Stipulation in the last case to allow Staff to continue its audit and present its findings in this case, KCPL blatantly violated that Stipulation provision and asked the Commission to terminate Staff's audit. Only when faced with the reality that such a position would leave the Commission to decide how to treat unaudited costs did KCPL retreat from its unreasonable position and allow Staff's audit to continue.

5. Still again, KCPL made it difficult for Staff to present its findings by designating all data requests responses as highly confidential. As a result, Staff was required to file the entirety of its audit findings as highly confidential. This not only made life more difficult on the Staff, it also shielded all of Staff's findings from public scrutiny.

6. Give this past conduct, it is not surprising that KCPL would seek to undermine Staff's depositions this week and require Staff to rapidly present its case during the first week of the hearing. KCPL provides no justification for its request other than to state that the Iatan 2 issues will be "complex and time consuming." Certainly, such justification rings hollow. Under any circumstances, given the pending operation of law date, the parties are required to complete the litigation of this case in the timeframe provided by the procedural schedule. Whether it requires starting early in the morning or going late at night, the parties must complete this case on the current schedule. As such, under Staff's proposed schedule, all parties will still have a full opportunity to present their issues, no matter how complex or time consuming those issues may be.

In reality, KCPL should be apathetic as to the timing of the Iatan 2 issues. Given KCPL's vocal opposition to Staff's schedule, however, it is apparent that KCPL's true motives lie elsewhere. In this case, the motive is KCPL's continued attempts to make it difficult for Staff to present its audit finding in a thorough fashion.

7. Of utmost importance, the Commission should realize that KCPL is seeking to recover, in this case, the costs associated with a generating plant that was completed behind schedule and at a cost that was more than 25% over budget. Given that KCPL is unable to present any justification, other than the alleged complexity of the Iatan

2 issues, the Commission should be careful to accommodate Staff's efforts to present these findings. Along these lines, it is important to remember that Staff's proposal is not being presented in an effort to inconvenience other parties by in an effort to give the Commission an objective view of these Iatan 2 costs. No other party has the time or resources to complete the audit that has been conducted by Staff. It would be a travesty for KCPL ratepayers if Staff was denied the objective analysis that it is created to provide.

8. As a final matter, MEUA states that it has three witnesses in this matter. Recognizing that these witnesses are consultants, each of these witnesses has matters pending in several other states. MEUA has previously informed the other parties of certain scheduling conflicts with these three witnesses. In light of the scheduling conflicts for these three consultants, MEUA states that Staff's schedule better accommodates the schedules of the MEUA witnesses.

WHEREFORE, MEUA respectfully requests that the Commission adopt the hearing schedule advanced by the Staff in this case.

Respectfully submitted,



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ATTORNEYS FOR THE
MIDWEST ENERGY USERS'
ASSOCIATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

A handwritten signature in black ink, appearing to read "D. Woodsmall", written in a cursive style.

David L. Woodsmall

Dated: January 11, 2010