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

Briarcliff Development Company	)	
Complainant,	)	
	)	
v.	)	File No. EC-2011-0383
	)	
Kansas City Power & Light Company	)	
Respondent.	)	

## **CORRECTION TO STAFF'S POST HEARING BRIEF**

COMES NOW the Staff ("Staff)" of the Missouri Public Service Commission ("Commission"), and states as follows:

- 1. Undersigned counsel has detected a typographical error in Staff's Post Hearing Brief.
  - 2. Page 8 of Staff's brief contains the following paragraph:

In Case No. ER-2006-0314, the Commission closed the 1LGAE subclass, and ordered its elimination by attrition. The Commission devoted fifteen pages of its Report and Order in ER-2007-0291 to the all-electric and separately-metered space heating issues. 1 The Commission discussed the relative rates of return of the subclasses, the competitive nature of heating alternatives in Kansas City, Staff's filed position to eliminate the rate schedules by attrition over time, and Trigen's proposal to eliminate the discount and the class more dramatically. In its Report and Order, the Commission restricted the availability of the 1LGAE rate to "existing customers," and reduced the magnitude of the 1LGAE discount compared to that of the comparable general service rate.<sup>2</sup> However, KCPL continued to place various structures and customers on the 1LGAE discount under two theories. The first relied on a very, very, broad interpretation of the term "existing customer" The second was that although the Commission's Report and Order ordered the restriction, because the 1LGAE tariff language remained unchanged, KCPL claimed could not implement the restriction.<sup>3</sup>

<sup>3</sup> Transcript p 104 – 114.

<sup>&</sup>lt;sup>1</sup> See Report and Order in Case No. ER-2007-0291, pp 75 – 90.

<sup>&</sup>lt;sup>2</sup> Report and Order in Case No. ER-2006-0314, pp 82 – 83; Transcript p 104; Transcript p 116.

- 3. The italicized sentence is actually in reference to KCPL's next rate case, Case No. ER-2007-0291.
- 4. The citation provided in the footnote at the end of the sentence, refers to Case No. ER-2007-0291, but undersigned counsel mistakenly placed the sentence in a paragraph discussing Case No. ER-2006-0314.
- 5. The next paragraph, beginning on page 9, should be corrected to include the sentence as follows:

Therefore, in KCPL's next rate case, Case No. ER-2007-0291, the Commission again reduced the magnitude of the discount of the 1LGAE rate compared to the comparable general service rate, and explicitly adopted Staff's recommended phase-out of the discounted 1LGAE rate.<sup>5</sup> The Commission devoted fifteen pages of its Report and Order in ER-2007-0291 to the all-electric and separately-metered space heating issues.<sup>6</sup> The Commission found that "[alllowing even more customers to use those discounts flies in the face of a possible move, supported by Staff, towards eliminating them completely."<sup>7</sup> In so doing, the Commission ordered that the "availability of KCPL's general service all-electric tariffs and separately-metered space heating rates should be restricted to those qualifying customers' commercial and industrial physical locations being served under such all-electric tariffs or separately metered space heating rates as of the date used for the billing determinants used in this case, 8 and such rates should only be available to such customers for so long as they continuously remain on that rate schedule (i.e., the all-electric or separately metered space heating rate schedule they are on as of such date)." As a consequence, the 1LGAE tariff sheet ultimately effectuating rates was denominated "Frozen." <sup>10</sup>

**WHEREFORE**, the Staff submits its *Correction to Staff's Post Hearing Brief*.

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<sup>&</sup>lt;sup>4</sup> Report and Order in Case No. ER-2007-0291, pp 79 – 80.

<sup>&</sup>lt;sup>5</sup> Report and Order in Case No. ER-2007-0291, pp 79 – 80.

<sup>&</sup>lt;sup>6</sup> See Report and Order in Case No. ER-2007-0291, pp 75 – 90.

<sup>&</sup>lt;sup>7</sup> Report and Order in Case No. ER-2007-0291, p 82.

<sup>&</sup>lt;sup>8</sup> This date was later clarified to refer to January 1, 2008. See *Order Regarding Motions for Rehearing and Request for Clarification*, effective December 21, 2007, in ER-2007-0291.

<sup>&</sup>lt;sup>9</sup> Report and Order in Case No. ER-2007-0291, p 82.

<sup>&</sup>lt;sup>10</sup> Sheet No. 19A.

Respectfully submitted,

THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

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## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this  $8^{th}$  day of February, 2012.

/s/ Sarah	<b>Kliethermes</b>	
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