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

In the Matter of the Application of Kansas)
City Power & Light Company for Authority to) **File No. ER-2018-0145**
Implement a General Rate Increase for)
Electric Service)

In the Matter of the Application of KCP&L)
Greater Missouri Operations Company for) **File No. ER-2018-0146**
Authority to Implement a General Rate)
Increase for Electric Service)

STAFF'S BRIEF

Respectfully Submitted,

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STAFF’S BRIEF

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Brief*, states as follows:

INTRODUCTION

In these general rate cases, the Commission exercises its delegated, quasi-legislative authority to set prospective rates for both Kansas City Power & Light Company (“KCPL”) and KCP&L Greater Missouri Operations Company (“GMO”)(collectively, “Company”), two major public utilities in the state of Missouri. KCPL and GMO separately filed requests with the Missouri Public Service Commission (“Commission”) to file revised tariffs to increase their rates for electric service. These cases were not consolidated, but due to the overlapping nature of the issues to be heard, the Commission and parties have handled these cases jointly for the purposes of filings and hearing.

The parties to the above-captioned matters reached several Stipulations and Agreements, filed September 19th, September 21st, September 25th, and September 27th, respectively. While the parties ultimately resolved all of the contested issues

amongst themselves via Stipulation and Agreement, on September 24, 2018, the Commission heard testimony regarding two Commission raised issues. Subsequently, during an October 3, 2018, on-the-record presentation of the various Stipulations and Agreements, and later via Commission order, the Commission requested Staff and the Company to brief Commission raised issues regarding Staff's investigation into response time for net metering and solar rebate applications, and regarding KCPL's and GMO's line extension tariffs.

- Mark Johnson

BRIEF

I. Staff's Investigation into KCPL's and GMO's Review and Response Time Regarding the Approval of Net Metering and Solar Rebate Applications for Systems Over 10 kW

On July 2, 2018, Commissioner Rupp ordered an investigation into allegations that KCPL and GMO have not complied with Section 386.890.7(1) RSMo., by taking longer than 90 days to approve net metering and solar rebate applications. Staff conducted discovery and spoke with KCPL and GMO as well as Sun Solar.¹

Staff's investigation found that only one project out of 16 projects submitted by Sun Solar surpassed the 386.890.7(1) timeframe.² The results of Staff's investigation for all exceedances of the timeframe in 386.890.7(1) are reproduced below.³

¹ Ex. 219, Rate Design Rebuttal Testimony of Cedric E. Cunigan, page 5, lines 20-22.

² Ex. 229, Surrebuttal Testimony of Cedric E. Cunigan, page 2, lines 18-19.

³ *Id.* at page 3.

Count of Net Metering & Cogeneration Project Approval Time Violations			
Year	Company	>10 kW Past 90 Days	<10 kW Past 30 Days
2014	KCPL	5	22
	GMO	0	2
2015	KCPL	14	156
	GMO	4	27
2016	KCPL	2	57
	GMO	1	27
2017	KCPL	0	28
	GMO	3	27
2018	KCPL	0	23
	GMO	0	40

As can be seen in the table, in the last 3 years, KCPL and GMO have only had a combined six applications for systems over 10 kW that surpassed the 90 day timeframe. There is a greater number of applications that surpassed the 30 day timeframe for systems under 10 kW. However, KCPL and GMO provided testimony explaining the reasons for applications surpassing the statutory timelines for systems over and under 10 kW.

Systems 10 kW and over⁴

<u>Project</u>	<u>KCP&L-MO</u>	<u>GMO</u>
Application/Design Flaw(s)	16	4
Customer-elected Redesign Following Initial	0	2
Application Inactivity/Waiting on Clarification	1	0
Vision System Reporting Error	1	0
Company's Responsibility- Delay in Acting	4	1
Total	22	7

⁴ Ex. 160, Surrebuttal Testimony of Drew Robinson, page 4.

Systems under 10 kW⁵

<u>Project</u>	<u>KCP&L-MO</u>	<u>GMO</u>
Application/Design Flaw(s)	17	15
Company's Responsibility - App. Creation Discrepancy	22	41
Company's Responsibility - Delay in Acting	7	7
Total	46	63

KCPL and GMO witness Drew Robinson explained that for systems 10 kW and over, the five delays were due to customers submitting applications via email.⁶ For projects under 10 kW, the most common reason for delay was the Company starting from the date the application was created, as opposed to the date the application was submitted, allowing for an additional 10 days to lapse.⁷

KCPL and GMO recognized that the prior system of processing applications was not perfect, and are working with AEG to make an external portal to facilitate the application process.⁸ The Company is also working to educate customers on the timeline associated with their installation to increase transparency and set expectations as well as adding additional resources to support the expected application volume for solar rebates under Senate Bill 564 and for continued support of the net metering program once the rebate program is complete.⁹

Staff believes, as a result of its investigation and review of the testimony provided on the issue, that KCPL and GMO are making substantial strides to improve

⁵ *Id.* at page 5.

⁶ *Id.* at page 3, lines 19-21.

⁷ *Id.* at page 4, lines 14-16.

⁸ *Id.* at page 6, lines 1-8.

⁹ *Id.* lines 13-20.

their application processes and cut down on the number of applications that exceed the statutory timeframe, and does not recommend any additional action be taken at this time. However, if the Commission would like to investigate further, an investigational docket could be opened to examine the issue, similar to File No. EO-2014-0357. The Commission has the authority to open an investigational docket under its general authority granted by Chapters 386 and 393 to order Staff to conduct investigations as to any matter of which complaint may be made with a view to the public welfare, efficient utility facilities, and substantial justice between customers and public utilities.¹⁰

- *Nicole Mers*

II. Commission Issues related to KCPL's and GMO's line extension tariffs:

On August 8, 2018, the Commission issued its *Order Directing Filing* ordering Staff, KCPL and GMO, and any other parties wishing to respond, to address the manner in which KCPL's current line extension policy (P.S.C. MO. No. 2 Original Sheet 1.30D-H) is more beneficial to customers than the one used by Ameren Missouri (Mo. P.S.C. Schedule No. 6 Original Sheets 116-122, Section K). In addition, the Commission directed the responding parties to provide information as to how KCPL's and GMO's current line extension policies are compatible with the Missouri Energy Efficiency Investment Act ("MEEIA"), specifically as to their heat pump program.¹¹ In response to the Commission's Order, Staff and the Company filed testimony addressing KCPL's and GMO's line extension policies through the Surrebuttal

¹⁰ See generally Sections 386.040, 386.250(7), 386.240, 393.130.1 and 393.270.1, RSMo. See also Commission Rule 4 CSR 240-2.070(1).

¹¹ ER-2018-0145, EFIS No. 167, *Order Directing Filing*, Issued August 8, 2018.

Testimony of Sarah L.K. Lange¹² and the Supplemental Direct Testimony of Bradley D. Lutz,¹³ respectively.

The line extension policy currently in place for KCPL is the result of the Commission's Report and Order in Case No. ER-2016-0185. In that case, the Commission ordered that, "KCPL shall also replace its current line extension tariff with one that is identical to or substantially similar to the line extension tariff used by GMO." KCPL was granted an extension by the Commission, allowing it to delay the implementation date of the line extensions to January 1, 2018.¹⁴ The proposal to change KCPL's line extension policy originated in the *Working Case to Consider Mechanisms to Encourage Infrastructure Efficiency*, Case No. EW-2016-0041. On December 11, 2015, after completing a survey of regulated utilities and conducting a workshop to receive comments, Staff issued an Investigation and Report, in which it concluded:

Staff recommends that to the extent the Commission is interested in a model extension policy that more aligns with cost-causation without restricting new growth, that consideration of a design similar to GMO's tariff be considered in that it more fully considers the incremental costs a customer causes to a system in determining how much, if any, customer advance is required.¹⁵

¹² Ex. 234.

¹³ Ex. 149.

¹⁴ *Id.* at page 2.

¹⁵ *Id.* at page 3.

Comparison of Company Line Extension Policies

KCPL's tariff,¹⁶ beginning on sheet 1.30, generally outlines that an applicant seeking service will be responsible for the cost of the system extension that exceeds, as applicable:

(1) the free basic extension described in 9.02 (B); or

(2) the Construction Allowance that is determined to be economically justifiable pursuant to the calculation provided in 9.02(C). The Construction Allowance is an examination of the relationship of the estimated revenue to be generated by the new customer (net of the cost of the energy the new customer will consume) to the carrying costs of the new plant dedicated to that customer.¹⁷

The portion of the cost of the system extension for which an applicant is responsible is defined as the "Construction Charges," under provision 9.02(D) of the tariff. Pursuant to 9.02.D.2, Construction Charges may be refundable; such as in the scenario where a developer seeks to have service extended throughout a new subdivision, but homes are built and inhabited over the course of several years.¹⁸ In short, under the KCPL and GMO approach, the cost of a system extension is determined by comparing the expected net revenue impact of a system addition to the expected revenue requirement impact of the addition.¹⁹

Staff witness Sarah Lange testified that the Company's policy differs from Ameren Missouri's in that the approach taken in the Ameren Missouri line extension

¹⁶ The KCPL and GMO line extension policies operate identically, but the tariff citations differ by utility.

¹⁷ Ex. 234, Surrebuttal Testimony of Sarah L.K. Lange, at page 2.

¹⁸ *Id.* at page 2.

¹⁹ *Id.* at page 3.

tariff compares the “annual net revenue, exclusive of gross receipts taxes, anticipated to be received” to the “costs incurred by Company in the installation of its distribution system within the subdivision,” that exceed the results of its comparison of “its standard overhead distribution cost per lot with the annual net revenue per lot estimated to be received from the additional homes within the subdivision,” with the potential for contributions made by the developer to cover the revenue shortfall to be refunded as houses become occupied, or as a partial refund of the contributed conduit system, as applicable.²⁰

Is KCPL’s Line Extension Policy More Beneficial to Customers than the One Used by Ameren Missouri?

Generally, the Company’s line extension policy is more beneficial to customers than that of Ameren Missouri. Ms. Lange explained in her testimony that the KCPL and GMO model is more beneficial to customers as it compares the estimate of on-going revenues *net* of the cost of energy to the estimated on-going revenue requirement of the new distribution system to be installed. Alternatively, the Ameren model compares an estimate of single year *gross* revenues including the cost of energy to the total cost of the distribution extension net of any applicable free allowance. Ms. Lange explained that the approach utilized by KCPL and GMO compares the elements that are most relevant to gauging the impact on future rates of adding infrastructure to support a new customer, while the Ameren Missouri approach compares elements that are more relevant to the utility’s profits.²¹

²⁰ *Id.* at page 4.

²¹ *Id.* at page 5.

Company Witness Bradley Lutz also explained the reasons that the Company Policy was more beneficial from the customers' perspective. On pages 10 through 11 of his Supplemental Direct Testimony, Mr. Lutz explained that he believes the Company's policy is more beneficial for the following reasons:

1. The use of Construction Allowance provides a better reflection of value gained from the line extension investment than the simple cost versus annual net revenue approach used in the Ameren Policy.
2. The Construction Allowance, through its use of margin, over a five-year period, provides a larger allowance to customers expected to have "better" load, such as higher load factor load.
3. The Construction Allowance provides for recognition of the end-use. For example, in the residential applications, heating can have a big impact on the revenue to be expected from a home. This is reflected in the size of the Construction Allowance.
4. A secondary but important benefit is provided with the use of an up-front charge with refundable and non-refundable components to help ensure Applicants remain committed to completing the projects as designed. If the up-front charge were not used, Applicants may feel less compelled to complete the work and recover the refundable amounts.²²

Mr. Lutz went on to state that he would contend that the use of the Construction Allowance approach is the single, largest factor resulting in more customer benefit than the annual net revenue approach used in the Ameren Model.²³

²² Ex. 149, Supplemental Direct Testimony of Bradley D. Lutz, pages 10-11.

²³ *Id.* at page 11.

**Are KCPL's and GMO's current line extension policies are compatible with
MEEIA?**

Yes. There is no conflict between KCPL's and GMO's current line extension policies and their current MEEIA programs. While KCPL's and GMO's MEEIA Cycle 2 programs do offer HVAC incentives, they are offered as part of the Whole House Efficiency Program, which is intended to encourage whole house improvements to existing homes by promoting home energy audits and comprehensive retrofit services.²⁴ While the Company's current MEEIA programs do not offer HVAC rebates for new construction, as explained by Mr. Lutz, a customer building a new home could utilize MEEIA to receive a rebate on the installation of a new ground source heat pump; otherwise, the MEEIA program is designed to replace operating or failed heating and cooling equipment in an existing home, and any utilization of MEEIA would be limited to an upgrade, conversion, or relocation request where an existing home might be present.²⁵ However, should a new construction HVAC program be implemented in a future MEEIA cycle, it would be reasonable to adjust the assumptions in the Company's feasibility models for the more efficient electric space heating end use.²⁶

Additional Issues Ordered by the Commission

In the Commission's October 4, 2018, *Order Modifying Briefing Schedule and Order Regarding Late-Filed Exhibits*, the Commission directed the Company and Staff, and any other interested party, to brief, for its consideration, the following additional issues related the Company's line extension tariffs:

²⁴ Ex. 234, Surrebuttal Testimony of Sarah L.K. Lange at page 9.

²⁵ Ex. 149, Supplemental Direct Testimony of Bradley D. Lutz, page 14.

²⁶ *Id.* at page 10.

(1) What source documents support KCP&L witness Lutz's testimony that applicants and customers with heat pumps pay less per kW than those without such pumps;

(2) Whether such treatment is a discriminatory treatment of customers; and

(3) What action, if any, the Commission should order on these issues along with what legal authority, if any, the Commission has to make such an order.

(1) What source documents support KCP&L witness Lutz's testimony that applicants and customers with heat pumps pay less per kW than those without such pumps?

During the hearing held on September 24, 2018, Company Witness Brad Lutz testified that both KCPL and GMO currently offer a price differential for electric heating service.²⁷ He went on to testify that while this price differential has decreased over the past several years, it provides a lower winter rate for those customers with electric space heating, than customers that have gas furnaces and take service on the general residential rate.²⁸ On October 4, 2018, the Company filed late-filed Exhibit 181 which included as attached Exhibits C and D the KCPL and GMO tariffs noting that heat pump customers under the residential space heat rate tariff pay a lower rate in the winter season than the residential general use customers for both the KCPL and GMO.

These documents support Mr. Lutz's statements related to the rate differential between residential space heating and general use tariffs. Specifically, KCPL's

²⁷ Tr., Vol. 12 at page 41.

²⁸ *Id.*

currently effective tariffs provide lower volumetric rates (\$/kWh) for space heating, all electric, and separately-metered space heating residential rate schedules (1RS6A, 1RFEB, 1RS2A, 1RS3A, 1RW7A, 1RH1A) than the General Use Rate Schedule (1RS1A, 1RSDA, 1RS1B). GMO's currently effective tariffs also provide lower rates for space heating customers; those schedules are Space Heating – One Meter MORH, and with Net Metering MORNH, and are lower than the General Use schedules MORH & MORNH.

(2) Is such treatment a discriminatory treatment of customers?

Reduced winter rates for KCPL's and GMO's space heating customers are not unduly discriminatory or preferential. Missouri law requires that “[a]ll charges made or demanded by any . . . electrical corporation . . . for . . . electricity . . . or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission.”²⁹ The law further provides that “[e]very unjust or unreasonable charge made or demanded for . . . electricity . . . or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.”³⁰

A “just and reasonable” rate balances the interests of the various stakeholders in light of the public interest.³¹ A just and reasonable rate is fair to both the utility and to its

²⁹ Section 393.130.1, RSMo.

³⁰ *Id.*

³¹ See *State ex rel. Union Electric Co. v. Public Service Commission*, 765 S.W.2d 618, 622 (Mo. App., W.D. 1988) (“Ratemaking is a balancing process”).

customers³² and is no more than is necessary to “keep public utility plants in proper repair for effective public service, [and] . . . to insure to the investors a reasonable return upon funds invested.”³³ The Commission uses traditional cost-of-service ratemaking to set just and reasonable rates.³⁴ The fixing of just and reasonable rates involves making pragmatic adjustments; in determining rates, a regulatory body is not bound to the use of any single formula or combination of formulae.³⁵ In the final analysis, it is not the methodology or theory used but the impact of a rate order of the Commission which counts in determining whether rates are just, reasonable, lawful and non-discriminatory.³⁶

Just and reasonable rates are neither unduly preferential nor unduly discriminatory with respect to any customer or class of customers.³⁷ While Section 393.130, RSMo., at subsections 2 and 3, forbids both unduly discriminatory rates and unreasonably preferential rates, and requires that all individuals have equal rights both in respect to service and charges, “such equality of right does not prevent differences in the modes and kinds of service and different charges based thereon.”³⁸ Therefore, it is

³² *St. ex rel. Valley Sewage Co. v. Public Service Commission*, 515 S.W.2d 845 (Mo. App., K.C.D. 1974).

³³ *St. ex rel. Washington University et al. v. Public Service Commission*, 308 Mo. 328, 344-45, 272 S.W. 971, 973 (banc 1925).

³⁴ FERC, *Cost-of-Service Rates Manual*, 1 (1999) [available electronically at www.ferc.gov]: ““Under cost-of-service ratemaking, rates are designed based on a [utility’s] cost of providing service including an opportunity for the [utility] to earn a reasonable return on its investment.”

³⁵ *State ex rel. Office of Public Counsel v. Public Service Com’n*, 367 S.W.3d 91, 108 (Mo. App., S.D. 2012), quoting *Fed. Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591, 602-3, 64 S.Ct. 281, ___, 88 L.Ed. 333, ___ (1944).

³⁶ *State ex rel. Associated Natural Gas Co. v. Public Service Com’n of Missouri*, 706 S.W.2d 870, 879 (Mo. App., W.D. 1985).

³⁷ Section 393.130.3, RSMo.; see *State ex rel. City of Joplin v. Public Service Com’n of State of Mo.*, 186 S.W.3d 290, 296 (Mo. App., W.D. 2005).

³⁸ *State ex rel. Laundry, Inc. v. Public Service Com’n*, 327 Mo. 93, 111, 34 S.W.2d 37, 45 (Mo. 1931).

appropriate for a utility to charge a different rate for different types of service, or service rendered under different circumstances.

Space heating customers utilize electric service to heat their homes. While this service does not necessarily differ from the service utilized by a residential general use customer, the result is that space heating customers use more energy; especially in the Company's off-peak season. These customers tend to have usage patterns that more consistently utilize distribution infrastructure and that may occur at times of lower cost energy and lower cost capacity. Further, the Commission has reviewed and approved the space heating rates in numerous rate cases in the recent past.³⁹ Most notably, in its *Report and Order* in Case No. ER-2012-0174, the Commission found that, while KCPL's and GMO's space heating rate schedules do provide lower winter rates than that of the residential general service rate schedules, "those rates recover their costs of service over the course of a year, do not constitute a discount or promotion, and do not constitute a subsidy of all-electric and space heat customers."⁴⁰ That being said, the slight rate shifts made in this case through the settled rate design reflected in the *Non-Unanimous Stipulation and Agreement Concerning Rate Design Issues* do reduce the differential between the average \$/kWh paid by space heating customers, as a whole, and general use customers, as a whole. While differing usage has justified the difference in rates for space heating customers in the past, this relationship has not been explored for many years. That being said, the signatories to the *Non-Unanimous*

³⁹ **Re Kansas City Power & Light Company**, File Nos. ER-2016-0285, ER-2014-0370; ER-2012-0174; ER-2010-0355; ER-2009-0089; ER-2007-0291; ER-2006-0314; **Re KCP&L Greater Missouri Operations Company**, File Nos. ER-2016-0156; ER-2012-0175; ER-2010-0356; and ER-2009-0090.

⁴⁰ File No. ER-2012-0174, *Report and Order*, pp. 33-34.

Stipulation and Agreement Concerning Rate Design Issues have agreed that both KCPL and GMO will file rate design cases by June 30, 2020. These cases will provide the Commission with the opportunity to further review the Company's "Time of Use" residential rate design, including the rates of space heating customers.

(3) What action, if any, should the Commission order on these issues, and what legal authority, if any, does the Commission have to make such an order?

Pursuant to its ratemaking authority in Chapters 386 and 393, the Commission should approve the various Stipulations and Agreements presented by the parties, and order the Company to develop rates based upon the methodology outlined in those documents. The effect of such an order would be to reduce the differential between space heating rates and general use rates, and would set just and reasonable rates for KCPL's and GMO's ratepayers.

- *Mark Johnson*

CONCLUSION

WHEREFORE, on account of all the foregoing, Staff prays that the Commission will issue its order, approving the various Stipulations and Agreements filed by the parties, as recommended by Staff herein; and granting such other and further relief as is just in the circumstances.

Respectfully submitted,

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Senior Counsel

Attorneys for Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and or their counsel of record on this 17th day of October, 2018.

/s/ Mark Johnson