

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

In the Matter of Kansas City Power & Light Company’s Request for Authority to Implement a General Rate Increase for Electric Service)
)
) **File No. ER-2016-0285**
)

**PUBLIC COUNSEL’S RESPONSE AND OBJECTION
TO CERTAIN COMPLIANCE TARIFF SHEETS**

COMES NOW the Office of the Public Counsel (“OPC” or “Public Counsel”) and offers its *Response* to the compliance tariff sheets filed by Kansas City Power & Light Company (“KCPL”) and for its *Objection* states:

1. On May 3, 2017, the Missouri Public Service Commission (“Commission”) issued its *Report and Order* in KCPL’s rate case and directed KCPL to file compliance tariff sheets by May 9, 2017. In addition, the Commission directed its Staff to file its recommendation on the compliance tariffs by May 15, 2017 and permitted any other party to do the same.

P.S.C. Mo. No. 7 Original Sheet Nos. 50.15 and 50.16

2. Public Counsel OBJECTS to the company’s compliance tariff sheets P.S.C. Mo. No. 7 Original Sheet Nos. 50.15 and 50.16 because the language could permit KCPL to include new types of costs or revenues to its FAC.¹

3. On May 12, 2017, Public Counsel filed its *Application for Rehearing and Reconsideration* addressing the issue underlying Public Counsel’s objection to the compliance tariff sheets. The Commission’s decision permits KCPL to “continue the current practice of allowing KCPL to add cost and revenue types to its FAC between rate cases according to its

¹ Pursuant to Commission Rule 4 CSR 240-2.065(3) the tariff sheets are included as **Attachment**

A.

current tariff” but explains “this does not authorize KCPL to add new types of costs or revenues between rate cases, but designations for those costs or revenues may be updated as necessary” (*Report and Order*, p. 35).

4. In order to accomplish the Commission’s stated intent Public Counsel suggests the Commission direct KCPL to amend its compliance tariff sheets to include the revisions offered in **Attachment B** in lieu of the company’s proposed language.²

P.S.C. Mo. No. 7 First Revised Sheet No. 50.5

5. The Commission should REJECT KCPL’s compliance tariff sheet P.S.C. Mo. No. 7 First Revised Sheet No. 50.5 because it begins with section “A” and is followed by section “F”. Section “A” should be re-labeled as section “E” in order to continue the sequence appropriately.³

P.S.C. Mo. No. 2 Eighth Revised Sheet No. 1.14

6. Public Counsel OBJECTS to KCPL’s compliance tariff sheet P.S.C. Mo. No. 2 Eighth Revised Sheet No. 1.14 because the language does not comply with the Commission order to “file an amended tariff to revise the existing prohibition on the resale of electricity in order to clarify that EV charging stations are not reselling electricity.” (*Report and Order*, p. 46).⁴

7. KCPL’s proposed compliance tariff includes a new section stating: “3.18 ELECTRIC VEHICLE CHARGING STATIONS: The sale of electricity from electric vehicle charging

² This language was also included in Public Counsel’s *Application for Rehearing and Reconsideration* as Attachment B.

³ Pursuant to Commission Rule 4 CSR 240-2.065(3) the tariff sheet is included as **Attachment C**.

⁴ Pursuant to Commission Rule 4 CSR 240-2.065(3) the tariff sheet is included as **Attachment D**.

stations does not constitute the resale of electricity.” This language does not reflect the decision of the Commission that “[t]he charging service is the product being sold, not the electricity used to power the charging system.” (*Report and Order*, p. 45). In order to reflect the Commission’s decision, Public Counsel suggests the Commission direct KCPL to amend its compliance tariff to state: “3.18 ELECTRIC VEHICLE CHARGING STATIONS: The sale or furnishing of electric vehicle charging services by a customer of the company to a third party does not constitute the resale of electricity.”

WHEREFORE, the Office of the Public Counsel submits this *Response and Objection to Certain Compliance Tariff Sheets*; requests the Commission reject KCPL’s filed P.S.C. Mo. No. 7 Original Sheet Nos. 50.15 and 50.16; reject P.S.C. Mo. No. 7 First Revised Sheet No. 50.5; reject P.S.C. Mo. No. 2 Eighth Revised Sheet No. 1.14; and requests the Commission direct KCPL to file amended tariff sheets adopting Public Counsel’s proposed revisions.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Tim Opitz
Tim Opitz
Deputy Public Counsel
Missouri Bar No. 65082
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5324
(573) 751-5562 FAX
Timothy.opitz@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 15th day of May 2017.

/s/ Tim Opitz

KANSAS CITY POWER AND LIGHT COMPANY

P.S.C. MO. No. 7 Original Sheet No. 50.15
Canceling P.S.C. MO. No. _____ Sheet No. _____
For Missouri Retail Service Area

FUEL ADJUSTMENT CLAUSE – Rider FAC
FUEL AND PURCHASE POWER ADJUSTMENT ELECTRIC
(Applicable to Service Provided May 28, 2017 and Thereafter)

FORMULAS AND DEFINITIONS OF COMPONENTS (continued)

Costs and revenues not specifically detailed in Factors FC, PP, E, TC, OSSR, or R shall not be included in the Company's FAR filings; provided however, in the case of Factors PP, TC or OSSR, the market settlement charge types under which SPP or another centrally administered market (e.g., PJM or MISO) bills/credits a cost or revenue need not be detailed in Factors PP or OSSR for the costs or revenues to be considered specifically detailed in Factors PP or OSSR; and provided further, should the SPP or another centrally administered market (e.g. PJM or MISO) implement a new market settlement charge type not listed below or a new schedule not listed in TC:

- A. The Company may include the new schedule, charge type cost or revenue in its FAR filings if the Company believes the new schedule, charge type cost or revenue possesses the characteristics of, and is of the nature of, the costs or revenues listed below or in the schedules listed in TC, as the case may be, subject to the requirement that the Company make a filing with the Commission as outlined in B below and also subject to another party's right to challenge the inclusion as outlined in E. below;
- B. The Company will make a filing with the Commission giving the Commission notice of the new schedule or charge type no later than 60 days prior to the Company including the new schedule, charge type cost or revenue in a FAR filing. Such filing shall identify the proposed accounts affected by such change, provide a description of the new charge type demonstrating that it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP, TC or OSSR as the case may be, and identify the preexisting schedule, or market settlement charge type(s) which the new schedule or charge type replaces or supplements;
- C. The Company will also provide notice in its monthly reports required by the Commission's fuel adjustment clause rules that identifies the new schedule, charge type costs or revenues by amount, description and location within the monthly reports;
- D. The Company shall account for the new schedule, charge type costs or revenues in a manner which allows for the transparent determination of current period and cumulative costs or revenues;
- E. If the Company makes the filing provided for in B above and a party challenges the inclusion, such challenge will not delay approval of the FAR filing. To challenge the inclusion of a new schedule or charge type, a party shall make a filing with the Commission based upon that party's contention that the new schedule, charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the schedules, costs or revenues listed in Factors PP, TC or OSSR, as the case may be. A party wishing to challenge the inclusion of a schedule or charge type shall include in its filing the reasons why it believes the Company did not show that the new schedule or charge type possesses the characteristics of the costs or revenues listed in Factors TC, PP or OSSR, as the case may be, and its filing shall be made within 30 days of the Company's filing under B above. In the event of a timely challenge, the Company shall bear the burden of proof to support its decision to include a new schedule or charge type in a FAR filing. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P; and

KANSAS CITY POWER AND LIGHT COMPANY

P.S.C. MO. No. 7

Original Sheet No. 50.16

Canceling P.S.C. MO. No. _____

Sheet No. _____

For Missouri Retail Service Area

FUEL ADJUSTMENT CLAUSE – Rider FAC
FUEL AND PURCHASE POWER ADJUSTMENT ELECTRIC
(Applicable to Service Provided May 28, 2017 and Thereafter)

FORMULAS AND DEFINITIONS OF COMPONENTS (continued)

F. A party other than the Company may seek the inclusion of a new schedule or charge type in a FAR filing by making a filing with the Commission no less than 60 days before the Company's next FAR filing date of August 1 or February 1. Such a filing shall give the Commission notice that such party believes the new schedule or charge type should be included because it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP, TC or OSSR, as the case may be. The party's filing shall identify the proposed accounts affected by such change, provide a description of the new schedule or charge type demonstrating that it possesses the characteristics of, and is of the nature of, the schedules, costs or revenues listed in factors PP, TC or OSSR as the case may be, and identify the preexisting schedule or market settlement charge type(s) which the new schedule or charge type replaces or supplements. If a party makes the filing provided for by this paragraph F and a party (including the Company) challenges the inclusion, such challenge will not delay inclusion of the new schedule or charge type in the FAR filing or delay approval of the FAR filing. To challenge the inclusion of a new schedule or charge type, the challenging party shall make a filing with the Commission based upon that party's contention that the new schedule or charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the schedules, costs or revenues listed in Factors PP, TC, or OSSR, as the case may be. The challenging party shall make its filing challenging the inclusion and stating the reasons why it believes the new schedule or charge type does not possess the characteristic of the costs or revenues listed in Factors PP, TC or OSSR, as the case may be, within 30 days of the filing that seeks inclusion of the new schedule or charge type. In the event of a timely challenge, the party seeking the inclusion of the new schedule or charge type shall bear the burden of proof to support its contention that the new schedule or charge type should be included in the Company's FAR filings. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P.

SPP IM charge/revenue types that are included in the FAC are listed below:

- Day Ahead Regulation Down Service Amount
- Day Ahead Regulation Down Service Distribution Amount
- Day Ahead Regulation Up Service Amount
- Day Ahead Regulation Up Service Distribution Amount
- Day Ahead Spinning Reserve Amount
- Day Ahead Spinning Reserve Distribution Amount
- Day Ahead Supplemental Reserve Amount
- Day Ahead Supplemental Reserve Distribution Amount
- Real Time Contingency Reserve Deployment Failure Amount
- Real Time Contingency Reserve Deployment Failure Distribution Amount
- Real Time Regulation Service Deployment Adjustment Amount
- Real Time Regulation Down Service Amount
- Real Time Regulation Down Service Distribution Amount
- Real Time Regulation Non-Performance
- Real Time Regulation Non-Performance Distribution
- Real Time Regulation Up Service Amount
- Real Time Regulation Up Service Distribution Amount
- Real Time Spinning Reserve Amount

Costs and revenues not specifically detailed in Factors FC, PP, E, TC, OSSR, or R shall not be included in the Company's FAR filings; provided however, in the case of Factors PP, TC or OSSR, the market settlement charge types under which SPP or another centrally administered market (e.g., PJM or MISO) bills/credits a cost or revenue need not be detailed in Factors PP or OSSR for the costs or revenues to be considered specifically detailed in Factors PP or OSSR; and provided further, should the SPP or another centrally administered market (e.g. PJM or MISO) ~~implement a new change its designation, schedule name or charge type cost or revenue name, market settlement charge type not listed below or a new schedule not listed in TC:~~

- A. ~~The Company may include the new schedule, charge type cost or revenue in its FAR filings if the Company believes the new schedule, charge type cost or revenue possesses the characteristics of, and is of the nature of, the costs or revenues listed below or in the schedules is currently included~~ listed in PP, TC, or OSSR as the case may be, subject to the requirement that the Company make a filing with the Commission as outlined in B below and also subject to another party's right to challenge the inclusion as outlined in E. below;
- B. The Company will make a filing with the Commission ~~giving identifying to~~ the Commission notice of the new schedule or charge type no later than 60 days prior to the Company including the new ~~re-designated~~ schedule, charge type cost or revenue in a FAR filing. Such filing shall identify the proposed accounts affected by such change; ~~provide a description of the new charge type demonstrating that it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP, TC or OSSR as the case may be, and identify the preexisting schedule, or market settlement charge type(s) which the re-designated~~ new schedule or charge type replaces or supplements;
- C. The Company will also provide notice in its monthly reports required by the Commission's fuel adjustment clause rules that identifies the new ~~re-designated~~ schedule, charge type costs or revenues by amount, description and location within the monthly reports;
- D. The Company shall account for the new ~~re-designated~~ schedule, charge type costs or revenues in a manner which allows for the transparent determination of current period and cumulative costs or revenues;
- E. If the Company makes the filing provided for in B above and a party challenges the inclusion, such challenge will not delay approval of the FAR filing. To challenge the inclusion of a ~~re-designated~~ new schedule or charge type, a party shall make a filing with the Commission based upon that party's contention that the new schedule, charge type costs or revenues at issue should not have been included, because they ~~do not possess the characteristics of the schedules, costs or revenues are not included~~ listed in Factors PP, TC or OSSR, as the case may be. A party wishing to challenge the inclusion of a schedule or charge type shall include in its filing the reasons why it believes the Company did not show that the new schedule or charge type ~~possesses the characteristics of the costs or revenues listed is not included~~ in Factors TC, PP or OSSR, as the case may be, and its filing shall be made within 30 days of the Company's filing under B above. In the event of a timely challenge, the Company shall bear the burden of proof to support its decision to include a ~~re-designated~~ new schedule or charge type in a FAR filing. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P; and
- F. A party other than the Company may seek the inclusion of a ~~re-designated~~ new schedule or charge type in a FAR filing by making a filing with the Commission no less than 60 days before the Company's next FAR filing date of August 1 or February 1. Such a filing shall give the Commission notice that such party believes the ~~re-designated~~ new schedule or charge type should be included because it ~~possesses the characteristics of, and is of the nature of, the costs or revenues is~~ listed in factors PP, TC or OSSR, as the case may be. The party's filing shall identify the proposed accounts affected by such change, provide a description of the ~~re-designated~~ new schedule or charge type demonstrating that it ~~possesses the characteristics of, and is of the nature of, the schedules, costs or revenues is~~ listed in factors PP, TC or OSSR as the case may be, and identify the preexisting schedule or market settlement charge type(s) which the ~~re-designated~~ new schedule or charge type replaces or supplements. If a party makes the filing provided for by this paragraph F and a party (including the Company) challenges the inclusion, such challenge will not delay inclusion of the new ~~re-designated~~ schedule or charge type in the FAR filing or delay approval of the FAR filing. To challenge the inclusion of ~~the a~~ new schedule or charge type, the challenging party shall make a filing with the Commission based upon that party's contention that the new schedule or charge type costs or revenues at issue should not have been included, because they ~~do not possess the characteristics of the schedules, costs or revenues are not~~ listed in Factors PP, TC, or OSSR, as the case may be. The challenging party shall make its filing challenging the inclusion and stating the reasons why it believes the new schedule or charge type ~~does not possess the characteristic of the costs or revenues is~~ listed in Factors PP, TC or OSSR, as the case may be, within 30 days of the filing that seeks inclusion of the new schedule or charge type. In the event of a timely challenge, the party seeking the inclusion of the new schedule or charge type shall bear the burden of proof to support its contention that the new schedule or charge type should be included in the Company's FAR filings. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P.

KANSAS CITY POWER AND LIGHT COMPANY

P.S.C. MO. No. 7 First Revised Sheet No. 50.5
Canceling P.S.C. MO. No. 7 Original Sheet No. 50.5
For Missouri Retail Service Area

FUEL ADJUSTMENT CLAUSE – Rider FAC
FUEL AND PURCHASE POWER ADJUSTMENT ELECTRIC
(Applicable to Service Provided September 29, 2015 Through May 27, 2017)

FORMULAS AND DEFINITIONS OF COMPONENTS (continued)

- A. If the Company makes the filing provided for in B above and a party challenges the inclusion, such challenge will not delay approval of the FAR filing. To challenge the inclusion of a new schedule or charge type, a party shall make a filing with the Commission based upon that party's contention that the new schedule, charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the schedules, costs or revenues listed in Factors PP, TC or OSSR, as the case may be. A party wishing to challenge the inclusion of a schedule or charge type shall include in its filing the reasons why it believes the Company did not show that the new schedule or charge type possesses the characteristics of the costs or revenues listed in Factors TC, PP or OSSR, as the case may be, and its filing shall be made within 30 days of the Company's filing under B above. In the event of a timely challenge, the Company shall bear the burden of proof to support its decision to include a new schedule or charge type in a FAR filing. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P; and

- F. A party other than the Company may seek the inclusion of a new schedule or charge type in a FAR filing by making a filing with the Commission no less than 60 days before the Company's next FAR filing date of August 1 or February 1. Such a filing shall give the Commission notice that such party believes the new schedule or charge type should be included because it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP, TC or OSSR, as the case may be. The party's filing shall identify the proposed accounts affected by such change, provide a description of the new schedule or charge type demonstrating that it possesses the characteristics of, and is of the nature of, the schedules, costs or revenues listed in factors PP, TC or OSSR as the case may be, and identify the preexisting schedule or market settlement charge type(s) which the new schedule or charge type replaces or supplements. If a party makes the filing provided for by this paragraph F and a party (including the Company) challenges the inclusion, such challenge will not delay inclusion of the new schedule or charge type in the FAR filing or delay approval of the FAR filing. To challenge the inclusion of a new schedule or charge type, the challenging party shall make a filing with the Commission based upon that party's contention that the new schedule or charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the schedules, costs or revenues listed in Factors PP, TC, or OSSR, as the case may be. The challenging party shall make its filing challenging the inclusion and stating the reasons why it believes the new schedule or charge type does not possess the characteristic of the costs or revenues listed in Factors PP, TC or OSSR, as the case may be, within 30 days of the filing that seeks inclusion of the new schedule or charge type. In the event of a timely challenge, the party seeking the inclusion of the new schedule or charge type shall bear the burden of proof to support its contention that the new schedule or charge type should be included in the Company's FAR filings. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P.

KANSAS CITY POWER & LIGHT COMPANY

P.S.C. MO. No. 2 Eighth Revised Sheet No. 1.14
Canceling P.S.C. MO. No. 2 Seventh Revised Sheet No. 1.14
For Missouri Retail Service Area

**RULES AND REGULATIONS
ELECTRIC**

3. SUPPLYING ELECTRIC SERVICE (continued)

- 3.14 RECONNECTION OF ELECTRIC SERVICE: The Company may impose a reconnection charge as a condition precedent to the restoration of electric service to a Customer whose electric service has been discontinued for any reason whatsoever, including discontinuance at the request of the Customer. If electric service is discontinued for nonpayment by the Customer of any delinquent electric service bill, the Company shall not be required to restore electric service to the Customer until all such delinquent bills have been paid, together with any such reconnection charge, and the Customer shall have complied with the credit regulations of the Company.
- 3.15 REFUSAL TO SERVE: The Company may refuse to supply electric service to any customer who fails or refuses to comply with any provisions of any applicable law, general order or rule of the Commission or rate schedule, rule or regulation of the Company in effect and on file with the Commission. However, nothing in this Rule 3.15 shall be construed as a reason for discrimination against a customer or applicant for service for exercising any right granted by 4 CSR 240-13, Utility Billing Practices.
- 3.16 PROPERTY OF THE COMPANY: All facilities furnished and installed by the Company on the premises of the Customer for the supply of electric service to the Customer shall be and remain the exclusive property of the Company. All facilities on the premises of the Customer which are or become the property of the Company shall be operated and maintained by and at the expense of the Company, may be replaced by the Company at any time, and may be removed by the Company upon termination of the Customer's service agreement or upon discontinuance by the Company of electric service to the Customer for any reason.
- 3.17 LIABILITY OF COMPANY: Except where due to the Company's willful misconduct or gross negligence, the Company shall not be liable in negligence or otherwise for any claims for loss, expense or damage (including indirect, economic, special or consequential damage) on account of fluctuations, interruption in, or curtailment of electric service; or for any delivery delay, breakdown; or failure of or damage to facilities; or any electric disturbance originating on or transmitted through electric systems with which the Company's system is interconnected, act of God or public enemy, strike, or other labor disturbance involving the Company or the Customer, civil, military or governmental authority.
- 3.18 ELECTRIC VEHICLE CHARGING STATIONS: The sale of electricity from electric vehicle charging stations does not constitute the resale of electricity.

4. TAKING ELECTRIC SERVICE

- 4.01 CUSTOMER'S INSTALLATION: Any and all wiring, appliance or equipment required to transform, control, regulate or utilize beyond the point of delivery the electric service supplied by the Company shall be furnished, installed and maintained by, and shall be the sole responsibility of, the Customer.