

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

Joint Application of Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company and The Empire District Electric Company for Authority to Enter Into Certain Leases and Agreements Regarding Existing Common Facilities at the Iatan Generating Station)))))))	<u>File No. EO-2012-0015</u>
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STAFF RECOMMENDATION

Comes now the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and on the Staff's behalf files this Staff Recommendation and states as follows:

1. On April 11, 2011, in File No. EO-2011-0334, Kansas City Power & Light Company ("KCPL") filed a Notice Of Intended Case Filing pursuant to 4 CSR 240-4.020 stating that it intended to file an application pursuant to Section 393.190 for (1) approval of the transfer of existing common facilities located at the Iatan Generating Station to the Kansas Electric Power Cooperative, Inc. ("KEPCo") and the Missouri Joint Municipal Electric Utility Commission ("MJMEUC"); (2) approval of the transfer of interests in permits to other owners of the new Iatan Unit 2 electric generating facility ("Unit 2"); (3) approval to enter into the Unit 2 Site lease; and (4) approval, if deemed necessary, for the sale of an interest in utility property to KEPCo and MJMEUC.

2. On July 15, 2011, in File No. EO-2012-0015, The Empire District Electric Company ("Empire") filed Empire's Notice Of Intended Case Filing pursuant to 4 CSR 240-4.020. Empire made note of the April 11, 2011 filing of KCPL in File No. EO-2011-0334, and stated that as a joint owner of the Iatan facilities,

Empire will be joining in the Application to be made by KCPL and will be requesting approval from the Commission to enter into the Unit 2 Site lease agreement.

3. On March 9, 2012, in File No. EO-2011-0334, KCPL filed an Application pursuant to 4 CSR 240-2.060 and 4 CSR 240.3110 for (1) approval of the transfer of existing common facilities located at the Iatan Generating Station to the Kansas Electric Power Cooperative, Inc. ("KEPCo") and the Missouri Joint Municipal Electric Utility Commission ("MJMEUC"); (2) approval of the transfer of interests in permits to other owners of the new Iatan Unit 2 electric generating facility ("Unit 2"); and (3) approval, if deemed necessary, for the sale of an interest in utility materials and supplies inventory to KEPCo and MJMEUC.

4. On March 9, 2012, in File No. EO-2012-0015, KCPL, KCP&L Greater Missouri Operations Company ("GMO"), and Empire filed a Joint Application pursuant to 4 CSR 240-2.060 and 4 CSR 240.3110 for the approval of (1) Unit 1 owners (KCPL, GMO, and Empire) to lease, and grant easements over, portions of the Initial Iatan Station Site to the Unit 2 owners (KCPL, GMO, MJMEUC, and KEPCo) covering Unit 2 and the Common Facilities, pursuant to Section 393.190.1 RSMo., and (2) the leasing of the Nower Property by KCPL to the other Unit 1 and Unit 2 owners for the landfill portion of the Common Facilities.

5. On March 14, 2012, the Commission issued an Order Directing Notice Of Application And Order Directing Filing in File No. EO-2011-0334 and File No. EO-2012-0015 in which, among other things, the Commission directed the Staff to file its recommendation in File No. EO-2011-0334 and in File No. EO-2012-0015 no later than April 16, 2012.

6. On April 13, 2012, the Staff filed Staff's Motion For Extension Of Time To File Staff's Recommendation. The Staff stated that it was engaged in discovery but had not completed discovery, and, as a consequence, had not completed its analysis of the pending Application and Joint Application. Therefore, the Staff requested an extension of time to Friday, June 1, 2012 to complete discovery and its analysis and file a recommendation in File No. EO-2011-0334 and File No. EO-2012-0015.

7. On April 13, 2012, the Commission issued in File No. EO-2012-0015 an Order Extending Time To File Recommendation granting the Staff an extension of time until June 1, 2012 to file its recommendation.

8. On June 1, 2012, the Staff filed Staff's Motion For Extension Of Time To June 4, 2012 To File Staff's Recommendation.

9. The Staff herewith files the attached Staff Memorandum Recommendation of Staff Auditor Charles R. Hyneman. The Staff recommends that the Commission approve, pursuant to Section 393.190.1, with conditions, as not detrimental to the public interest, KCPL's, GMO's and Empire's Application as related in the Staff Memorandum Recommendation:

Approve KCPL's, GMO's and Empire's request for authorization to enter into the Unit 2 Site lease, and grant KCPL's request for authorization to enter into the Nower Property Lease, as these leases are otherwise described in the Application based on (1) the fact that these transactions will have no effect on KCPL, GMO or Empire's ability to provide safe and adequate service as is currently being provided, (2) the Commission in this proceeding making no accounting or ratemaking determination regarding the treatment of the Unit 2 Ground Lease and the Nower Property Lease, (3) the Staff reserving the right to propose in KCPL and GMO's current rate cases, File Nos. ER-2012-0174 and ER-2012-0175, and in Empire's next rate case, what the Staff believes to be fair and equitable ratemaking treatment, regarding treatment of the lease transactions, (4) the Staff expressing no opinion on the appropriateness,

reasonableness or correctness of the pro forma journal entries put forth by KCPL in response to Staff data requests in this case and (5) the Staff reserving the right to propose a ratemaking adjustment involving the Nower Property Lease in KCPL and GMO's current rate cases, File Nos. ER-2012-0174 and ER-2012-0175, respectively, and Empire's next rate case.

Any outstanding questions respecting KCPL's, GMO's, and Empire's filing would be decided in KCPL's and GMO's pending rate cases, File Nos. ER-2012-0174 and ER-2012-0175, respectively, and Empire's next rate case.

WHEREFORE, the Staff submits herewith the Staff Memorandum Recommendation of Staff Auditor Charles R. Hyneman in this proceeding, File No. EO-2012-0015.

Respectfully submitted,

/s/ Steven Dottheim

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing *Staff Recommendation* have been transmitted electronically to all counsel of record this 4th day of June, 2012.

/s/ Steven Dottheim

MEMORANDUM

TO: Missouri Public Service Commission Official Case File, No. EO-2012-0015
Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company and The Empire District Electric Company

FROM: Charles R. Hyneman –Auditing Unit

/s/ Charles R. Hyneman 06/04/2012
Project Coordinator/Date

/s/ Steven Dottheim 06/04/2012
Staff Counsel's Department/Date

SUBJECT: Staff's Recommendation for the Commission to authorize Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company and The Empire District Electric Company to Enter Into Certain Leases and Agreements Regarding Existing Common Facilities at the Iatan Generating Station

DATE: June 4, 2012

OVERVIEW

On March 9, 2012 Kansas City Power & Light Company ("KCPL") KCP&L Greater Missouri Operations Company ("GMO"), and The Empire District Electric Company ("Empire") (collectively "Unit 1 Owners" or "Applicants") submitted an application ("Application") for approval to enter into Iatan Station lease agreements. KCPL, GMO and Empire request Commission authority to enter into what is referred to as the Unit 2 Ground Lease and KCPL separately requests Commission approval to enter into what it refers to as the Nower Property Lease. As discussed below, the Staff recommends, among other things, that the Commission grant the requested authority to enter into the proposed transactions, as being not detrimental to the public interest, reserving making any determinations as to applicable accounting and ratemaking treatment until the pending KCPL and GMO rate cases and a future Empire rate case.

DISCUSSION

In its review of the Application in this case the Staff held a meeting with KCPL personnel as well as submitted data requests relating to the Application. The seven page Application and two affidavits do not indicate whether the Applicants will utilize operating lease or capital lease accounting and ratemaking treatment for the Unit 2 Ground Lease and the Nower Property Lease. In the meeting with KCPL the Staff was unable to understand the rationale and basis on which KCPL indicated it planned to record these lease transactions in its books and records that the Staff found sufficient or acceptable. In response to Staff Data Request No. 1, KCPL provided pro forma journal entries to record the leases and indicated that it was going to record the lease transactions as an operating lease as opposed to a capital lease. When asked to identify

the industry, regulatory, or other accounting guidance or authority KCPL is using to determine the accounting treatment of these leases, KCPL responded:

The lease criteria under FAS 13 was used to determine it is an operating lease. There is no transfer of ownership at the end of the lease term. There is no bargain purchase option. The lease term is not greater than 75% of the economic life. The present value of the minimum lease payments is not greater than 90% of the fair value of the leased item.

While the Staff believes the methodology KCPL chooses to record these transactions is important, it is not necessary for a Commission decision on either the accounting or the ratemaking treatment of the leases to be made in this proceeding. The Staff will review the ultimate method chosen by KCPL to record these transactions in KCPL's and GMO's books and records in the current rate proceedings, File No. ER-2012-0174 and ER-2012-0175. The Staff will make a recommendation on the appropriate accounting and ratemaking treatment in its direct filing in these cases. The Staff would suggest that KCPL and GMO file supplemental direct testimony in these cases as soon as possible. The Staff would note that Empire has not intervened in either File No. ER-2012-0174 or File No. ER-2012-0175.

At paragraph 14 of the Application it is asserted that the proposed transaction will "promote" the continued provision of safe and adequate electric service. When asked by the Staff to define the word "promote" as used here and to "list all reasons why it believes these transactions will "promote" the continued provision of safe and adequate electric service" KCPL responded by directing Staff to KCPL's response to Staff Data Request No. 1 question 11 in File No. EO-2011-0334. This response provides as follows: "*Approval of the Application is consistent with the Iatan 2 Common Facilities Ownership Agreement. Promote means advance.*" While Staff does not believe the proposed lease transactions will "promote" continued safe and adequate service, it does not believe, as noted below, that the proposed lease transactions, by themselves, and if consummated in accordance with the Application, will be detrimental to the public interest.

The Iatan 2 Common Facilities Ownership Agreement on which both lease costs and other terms and conditions were agreed to is dated May 19, 2006. The Iatan 2 generating unit was placed in Service on August 26, 2010. Over 18 months have transpired since Unit 2 was placed in service, which is the date these lease transactions could have been consummated. The Staff is concerned as to why the Applicants (for the Unit Ground Lease) and KCPL (for the Nower Property Lease) took so long to file this Application. The Staff's concern relates to the ratemaking impact of this 18-month delay on the Applicants' utility customers. As KCPL noted in response to Staff Data Request No. 2 in this case, the Nower Property is included in KCPL's rate base at the full original cost and is being used as a landfill and other purposes. If this land is being used for the benefit of other entities, KCPL's customers should not be absorbing the full costs on this investment in land.

STAFF RECOMMENDATION

In this Application, KCPL, GMO and Empire request Commission authority to enter into the Unit 2 Ground Lease and KCPL separately requests Commission authority to enter into the Nower Property Lease. Based on the Staff's review, it has determined that the consummation of both the Unit 2 Ground Lease and the Nower Property Lease transactions, as proposed by the Applicants in the Application, should not be detrimental to the public interest.

The Staff's determination is based on (1) the fact that these transactions will have no effect on KCPL, GMO or Empire's ability to provide safe and adequate service as is currently being provided, (2) the Commission in this proceeding makes no accounting or ratemaking determination regarding the treatment of the Unit 2 Ground Lease and the Nower Property Lease, (3) the Staff reserves the right to propose in KCPL and GMO's current rate cases, File Nos. ER-2012-0174 and ER-2012-0175, and in Empire's next rate case, what the Staff believes to be fair and equitable ratemaking treatment, regarding treatment of the lease transactions, (4) the Staff expresses no opinion on the appropriateness, reasonableness or correctness of the pro forma journal entries put forth by KCPL in response to Staff data requests in this case and (5) the Staff reserves the right to propose a ratemaking adjustment involving the Nower Property Lease in KCPL and GMO's current rate cases, File Nos. ER-2012-0174 and ER-2012-0175, respectively, and Empire's next rate case.

Based on the considerations and conditions noted above, the Staff recommends that the Commission (1) approve KCPL's, GMO's and Empire's request for authorization to enter into the Unit 2 Site lease, and (2) grant KCPL's request for authorization to enter into the Nower Property Lease, as these leases are otherwise described in the Application.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

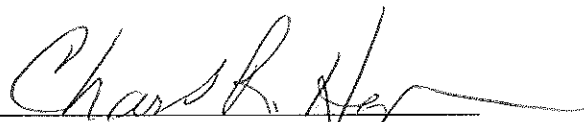
Joint Application of Kansas City Power & Light)
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Company for Authority to Enter Into Certain)
Leases and Agreements Regarding Existing)
Common Facilities at the Iatan Generating Station)

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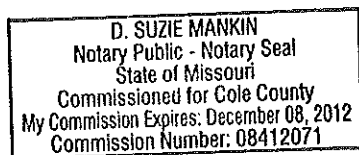
AFFIDAVIT OF CHARLES R. HYNEMAN

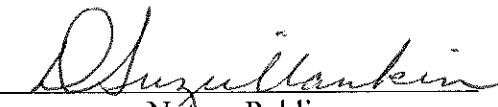
STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

Charles R. Hyneman, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was developed by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true and correct to the best of his knowledge and belief.


Charles R. Hyneman

Subscribed and sworn to before me this 4th day of June, 2012.




Notary Public