

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 Sell)
Approximately Three Miles of a 69 kV)
Transmission Line to the City of Independence,)
Missouri)

File No. EO-2012-0354

ORDER APPROVING APPLICATION

Issue Date: June 14, 2012

Effective Date: June 15, 2012

Background

On April 20, 2012, Kansas City Power & Light Company ("KCP&L") filed an application¹ with the Missouri Public Service Commission ("Commission") seeking to sell and transfer a portion of its works and systems to the City of Independence, Missouri ("City"). The proposed transaction involves the sale and transfer of approximately three miles of a 69kV three-phase transmission line from KCP&L to the City. The line is currently used to provide transmission service to the City so that the City can serve a load pocket it cannot access through its own system.

The Commission directed notice, set a deadline for intervention, and set a deadline for a recommendation from its Staff. On May 30, 2012, Staff filed a recommendation that the Commission approve the application, with the condition that KCP&L record the net proceeds from this sale as salvage to the individual FERC USOA accumulated depreciation reserve accounts, recording salvage in proportion to the original cost of plant sold from

¹ The application was filed pursuant to Section 393.190, RSMo 2000, and Commission Rules 4 CSR 240-2.060 and 4 CSR 240-3.110. The application included a motion for expedited treatment. All statutory references are to RSMo 2000, and its amendments and revisions, unless otherwise noted.

each transmission account. KCP&L has accepted the Staff condition. No persons requested to intervene or opposed Staff's recommendation.

Jurisdiction and Discretionary Authority

KCP&L's application involves a transfer of assets, so it is within the Commission's jurisdiction to approve or deny the application pursuant to Section 393.190, RSMo 2000. Since no law requires a hearing on this application, this is a non-contested case.²

Legal Standard for Approval

Section 393.190.1 provides, in pertinent part:

No . . . , electrical corporation, . . . shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do.

Section 393.190.1 does not set a standard for the approval of a proposed transfer of assets; however, the Missouri Supreme Court in *State ex rel. City of St. Louis v. Public Service Commission of Missouri*, 73 S.W.2d 393, 395 (Mo. 1934) determined the standard for the Commission's approval was whether the transfer "would be detrimental to the public."³ This standard does not require the demonstration of the transaction benefiting the public, only that the transaction is not a detriment to the public.⁴ This standard is also codified in Commission Rule 4 CSR 240-3.310(1)(D), which requires that applicants

² Section 536.010(4), RSMo Supp. 2010, defines a "contested case" as "a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing."

³ *City of St. Louis*, 73 S.W.2d at 395 and 400. This case involved a merger subject to approval by the PSC under § 5195, RSMo 1929, a predecessor to § 393.190. See also *State ex rel. AG Processing, Inc. v. Public Service Comm'n of State*, 120 S.W.3d 732, 735 (Mo. banc 2003) and *State ex rel. Fee Fee Trunk Sewer v. Litz*, 596 S.W.2d 466, 468 (Mo. App. 1980).

⁴ *Id.*

seeking approval to transfer assets include in their applications “[t]he reasons the proposed sale of assets is not detrimental to the public interest.”

Analysis

KCP&L is seeking to sell and transfer a portion of its works and systems to the City of Independence. KCP&L states in its verified application that the parties seek approval from the Commission for the sale of approximately three miles of a 69 kV three phase transmission line. The line is used solely to provide transmission service to the City so that the City can serve a load pocket that it cannot access through its own system. The City wishes to buy the line so that it can serve the load pocket directly and avoid the expense of buying transmission service from Southwest Power Pool.

Staff states in its recommendation that granting the application with the condition described above would not be detrimental to the public interest and will have little impact on local tax revenues.

Decision

Based on the Commission’s independent and impartial review of the filings, the Commission determines that KCP&L’s proposed sale of three miles of a 69kV three-phase transmission line to the City is not detrimental to the public interest, and the Commission will approve it. Since KPC&L requests prompt approval of its application and because that application is not opposed by any party, the Commission will make this order effective immediately.

THE COMMISSION ORDERS THAT:

1. Kansas City Power & Light Company’s Application for Authority to Sell Approximately Three Miles of a 69 kV Transmission Line to the City of Independence,

Missouri is approved, subject to the condition recommended by the Commission's Staff as delineated in the body of this order.

2. Kansas City Power & Light Company is authorized to take all actions necessary and proper to consummate the transaction proposed in the application.

3. This order shall become effective on June 15, 2012.

4. This file shall be closed on June 16, 2012.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. Reed', is written over a faint, larger signature.

Steven C. Reed
Secretary

(S E A L)

Michael Bushmann, Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 14th day of June, 2012.