

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

In the Matter of the Joint Application of)
Entergy Arkansas, Inc., Mid South)
TransCo, LLC, Transmission Company)
Arkansas, LLC, and ITC Midsouth LLC,)
for Approval of Transfer of Assets and)
Certificate of Convenience and Necessity,)
and Merger and, in connection therewith,)
Certain Other Related Transactions.)

Case No. EO-2013-0396

In the Matter of Entergy Arkansas, Inc.'s)
Notification of Intent to Change Functional)
Control of Its Missouri Electric Trans-)
mission Facilities to the Midwest)
Independent Transmission System)
Operator, Inc., Regional Transmission)
System Organization or Alternative)
Request to Change Functional Control)
and Motions for Waiver and Expedited)
Treatment.)

Case No. EO-2013-0431

**STAFF'S STATEMENT OF POSITION
AND REQUEST THAT THE COMMISSION
TAKE NOTICE OF CERTAIN FACTS**

COMES NOW the Staff of the Missouri Public Service Commission and for its
*Statement of Position on the Issues and Request that the Commission Take Notice of
Certain Facts*, states as follows:

INTRODUCTION

Case No. EO-2013-0396:

Case No. EO-2013-0396 concerns the application of Entergy Arkansas, Inc.
("EAI"), Mid South TransCo LLC ("Mid South TransCo"), Transmission Company
Arkansas, LLC ("TC Arkansas") and ITC Midsouth LLC ("ITC Midsouth") (collectively,
"Joint Applicants"), for approval of the transfer of ownership of the transmission assets

of the Entergy Operating Companies to a subsidiary of ITC Holdings Corp. (the “Transaction”).¹ The Joint Applicants assert that the result of the Transaction will be ownership of the Entergy Operating Companies’ transmission assets by an independent, transmission-only company with no generation or distribution assets.

EAI holds a certificate of convenience and necessity (“CCN”) granted by this Commission in Case No. EA-2012-0321 and operates certain electric transmission and distribution facilities in several Missouri counties.² These facilities are used to furnish electricity at wholesale to various Missouri regulated utilities, municipalities and cooperatives under rates set by the Federal Energy Regulatory Commission (“FERC”) and to furnish electricity at retail to customers in northern Arkansas under rates set by the Arkansas Public Service Commission (“APSC”). EAI has no retail customers in Missouri.

The Transaction contemplates that EAI will reorganize and will transfer its Missouri transmission facilities to its subsidiary TC Arkansas, which will then become a subsidiary of Mid South TransCo, which will be “spun off” and merged with ITC Mid South. EAI’s Missouri transmission facilities will be held by TC Arkansas under its new name of ITC Arkansas; the Joint Applicants request that the Commission grant a CCN to ITC Arkansas. EAI will retain its limited distribution facilities in Missouri for the

¹ EAI is an Entergy Operating Company; EAI and Mid South TransCo are Entergy subsidiaries. TC Arkansas is a subsidiary of EAI. ITC Midsouth is a subsidiary of ITC Holdings Corp.

² The application lists five: New Madrid, Dunklin, Oregon, Pemiscot, and Taney. EAI was formerly known as Arkansas Power & Light (“AP&L”) and operated in Missouri as a traditional integrated public utility providing electric service to customers under tariffs approved by this Commission. In 1991, the Commission allowed AP&L to sell most of its Missouri facilities, including its Missouri retail electric business, to Union Electric Company, now doing business as Ameren Missouri, and Sho-Me Power Corporation. AP&L, now EAI, retained the facilities that are the subject of this docket. As part of its final order in 1991, the Commission cancelled AP&L’s certificates and relieved it of its obligation to serve the public. EAI’s current CCN was granted in 2012 to cover both a new interconnection to a cooperative and EAI’s existing Missouri facilities.

purpose of serving its retail load in northern Arkansas. Out of an abundance of caution, the Joint Applicants seek the approval of this Commission, although they don't really believe that they need it. Staff recommends that the Commission grant the requested authority, CCN and waivers and allow the Transaction to go forward as proposed.

Case No. EO-2013-0431:

Case No. EO-2013-0431 concerns EAI's notice and application for authority to transfer functional control of its transmission facilities to the Midcontinent Independent System Operator ("MISO"), a Regional Transmission Organization ("RTO"). EAI does not believe that it is necessary to obtain authority from this Commission for this transfer and urges the Commission to conclude that it lacks jurisdiction over the proposed transfer and to dismiss this docket. EAI also states that it has obtained or is seeking authority for the transfer from the FERC and from five other state regulatory authorities, including the APSC.³ The Missouri transmission facilities involved are the same facilities that EAI seeks to transfer to ITC Arkansas. Staff recommends that the Commission grant the requested authority.

STATEMENT OF POSITIONS ON THE ISSUES

Case No. EO-2013-0396:

1. Does the Commission have jurisdiction over this matter:

Yes, the Commission has jurisdiction over this matter, both to hear and determine the questions presented by the application and to grant, or to refuse to grant, or to grant with conditions, the requested relief.

In Missouri, jurisdiction encompasses both the authority to hear and determine a

³ Evidently EAI believes that those state regulatory agencies and the FERC do have jurisdiction over the proposed transfer.

case of the sort at bar and to grant the requested remedies.⁴ The Joint Applicants state in their application that EAI has a CCN granted by this Commission and, pursuant to that authority, owns and operates certain transmission and distribution facilities in several Missouri counties, although EAI does not serve any retail customers in Missouri and has no Missouri tariffs.⁵ The Commission is a creature of statute and its jurisdiction, if any, in any situation must be found by reference to the plain language of the Missouri statutes.⁶

Section 386.020(15), RSMo, defines an “electrical corporation” as: “every corporation . . . owning, operating, controlling or managing any electric plant”⁷

“Electric plant,” in turn:

includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power[.]⁸

EAI’s Missouri facilities, according to its own statements in its application, are used for the transmission and distribution of electricity that is presumably used eventually for “light, heat or power,”⁹ and pursuant to § 386.020(43), RSMo, EAI is thus a

⁴ J. Devine, *Missouri Civil Pleading and Practice*, § 9.1 (1986), citing *State Tax Commission v. Administrative Hearing Commission*, 641 S.W.2d 69, 72 (Mo. banc 1982).

⁵ The latter fact may be ascertained by reference to the “View Tariff” function of the Commission’s on-line Electronic Filing and Information System (“EFIS”), q.v. “Entergy Arkansas, Inc.”

⁶ *State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 47 (Mo. banc 1979).

⁷ With certain enumerated exceptions not pertinent here.

⁸ Section 386.020(14), RSMo.

⁹ The application states that the transmitted and distributed electricity is sold at wholesale to Missouri municipalities and cooperatives, and used to serve their retail loads, and sold at retail to customers in

“public utility” subject to the “jurisdiction, control and regulation” of this Commission. The Commission evidently recognized as much in 2012 when, without discussion, it granted a CCN in Case No. EA-2012-0321 to EAI covering both the proposed new interconnection and EAI’s existing Missouri facilities.¹⁰ Although EAI has no Missouri tariffs and serves no Missouri retail load, those facts are irrelevant to the cited statutes.

The Joint Applicants seek authority for EAI to reorganize and to transfer away some of its electric plant, and they seek a CCN for TC Arkansas/ITC Arkansas to own and operate that transferred electric plant, and also various waivers and other incidental authorities. Because EAI is a Missouri public utility and TC Arkansas/ITC Arkansas will become a Missouri public utility should the Transaction be consummated, this Commission’s approval is required for the Transaction to go forward. EAI will retain some of its electric plant and thus will continue to need its CCN to do so.

In pointing out that this Commission has jurisdiction over this matter, Staff is not unmindful of the fact that other regulatory bodies also have jurisdiction. The Arkansas PSC has jurisdiction over EAI’s operations in that state; this Commission does not. FERC has jurisdiction over EAI’s interstate transmission business, including its sale of electricity at wholesale to Missouri municipalities and cooperatives, while this Commission’s jurisdiction over that business is limited.¹¹ Nonetheless, this Commission

Arkansas. It can be inferred that all of the electricity serves end users who use it for light, heat and power.

¹⁰ *In the Matter of the Application of Entergy Arkansas, Inc.*, Case No. EA-2012-0321 (**Order Granting Certificate of Convenience and Necessity**, issued July 11, 2012).

¹¹ Section 386.030, RSMo, and § 394.160, RSMo.

has jurisdiction over the act of owning and operating electric plant in Missouri and thus over the transfer of that plant.¹²

“Before a utility can sell assets that are necessary or useful in the performance of its duties to the public it must obtain approval of the Commission.”¹³ The Missouri Supreme Court has stated that “[a] property owner should be allowed to sell his property unless it would be detrimental to the public.”¹⁴ More emphatically, the Missouri Court of Appeals held that “[t]he Commission may not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest.”¹⁵ The electric plant in question is clearly necessary and useful to EAI in performing its duties to the public, namely, the Missouri citizens that rely on the electricity transmitted and distributed by EAI for light, heat and power.

2. Should the Commission find and conclude that the proposed transfer of EAI’s transmission facilities in Missouri to ITC, including all the steps of the Transaction described in the Joint Application, is not detrimental to the public interest in Missouri?

Yes, the Commission should find and conclude that the proposed Transaction is not detrimental to the public interest in Missouri.

¹² The Commission retains jurisdiction over other aspects of the electric plant in question as well, and over the activities of the public utility that owns and operates it. See §§ 386.310.1, RSMo; 393.130.1, RSMo, and 393.140(5), RSMo (safety, reliability and adequacy). The Commission has “plenary power to coerce a public utility corporation into a safe and adequate service and the performance of the public duty unto which its franchise bound it.” *State ex rel. Missouri Southern Railway Co. v. PSC*, 259 Mo. 704, ___, 168 S.W. 1156, 1163 (banc 1914). Thus, while the Commission’s ratemaking power over EAI’s sales at wholesale to Missouri municipalities and cooperatives is pre-empted, the Commission retains the authority to prohibit EAI from ceasing such sales and EAI therefore needs the Commission to relieve it of its duty to serve.

¹³ *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App., E.D. 1980); § 393.190.1, RSMo.

¹⁴ *State ex rel. City of St. Louis v. PSC*, 335 Mo. 448, 459, 73 S.W.2d 393, 400 (Mo. banc 1934).

¹⁵ *Fee Fee Trunk Sewer*, *op. cit.*

Based on the prefiled testimony, the Joint Applicants' witnesses will provide evidence of various benefits that the Transaction will confer, including greater financial strength, an operator of demonstrated ability and a singular focus on maintaining, operating and enhancing the robustness of the transmission grid. In Staff's opinion, no witnesses have prefiled testimony upon which this Commission lawfully and reasonably could make a finding of detriment based on safety, reliability or adequacy of electric service in Missouri due to the Transaction. Assertions that rates will increase are irrelevant, in Staff's opinion, given that interstate transmission rates are set by the FERC, not by this Commission, and are just and reasonable as a matter of law. In any event, cost must be weighed against the value of any benefits conferred.¹⁶ It is Staff's opinion that the projected benefits of the Transaction outweigh its likely costs.

3. Have the Joint Applicants in Case No. EO-2013-0396 met their burden to provide sufficient information to the Commission so that the Commission may make a determination regarding whether the transfer of EAI's Missouri transmission assets and its certificate of convenience and necessity is not detrimental to the public interest?

Yes, see Staff's position on Issue No. 2, above.

Staff notes that EAI should retain its CCN and that the Commission should grant a new CCN to TC Arkansas/ITC Arkansas. The Commission should relieve EAI of its obligation to serve to the extent that it has transferred away the requisite electric plant.

¹⁶ *Intercon Gas, Inc. v. PSC*, 848 S.W.2d 593, 597-98 (Mo. App., W.D. 1993).

4. Have the Joint Applicants in Case No. EO-2013-0396 demonstrated that there is no net detriment to Missouri customers that may result from the contemplated merger?

Yes, see Staff's position on Issue No. 2, above.

5. Have the Joint Applicants in Case No. EO-2013-0396 documented and supported the increase in transmission rates that is likely to occur as a result of the merger?

Assertions that rates will increase are irrelevant, in Staff's opinion, given that interstate transmission rates are set by the FERC, not by this Commission, and are just and reasonable as a matter of law. In any event, cost must be weighed against the value of any benefits conferred.¹⁷ It is Staff's opinion that the projected benefits of the Transaction outweigh its likely costs.

6. Have the Joint Applicants documented any incremental benefit to Missouri customers that will offset the projected increases in transmission rates caused by the increased ROE and higher equity component in capital structure associated with the transfer of its Missouri transmission assets to ITC?

Yes, see Staff's position on Issue No. 2, above.

Additionally, assertions that rates will increase are irrelevant, in Staff's opinion, given that interstate transmission rates are set by the FERC, not by this Commission, and are just and reasonable as a matter of law. In any event, cost must be weighed against the value of any benefits conferred.¹⁸ It is Staff's opinion that the projected benefits of the Transaction outweigh its likely costs.

¹⁷ *Id.*

¹⁸ *Id.*

7. Should the Commission grant TC Arkansas a certificate of convenience and necessity with respect to the transmission assets located in Missouri that are to be transferred from EAI to ITC, grant TC Arkansas waivers of 4 CSR 240-3.145, 3.165, 3.175, and 3.190(1)(3), and authorize ITC Arkansas to change its name to ITC Arkansas LLC in conjunction with completion of the Transaction?

Yes, see Staff's position on Issue No. 3, above.

However, the Commission should not grant a waiver from compliance with Rule 4 CSR 240-3.190(3)(E) and (4)-(10), relating to the reporting of the loss of transmission capability in Missouri that could limit the output of a generating plant.

8. Have the Joint Applicants Adequately addressed the issues of safety and reliability that may arise as a result of the proposed transaction?

Yes, see Staff's position on Issue No. 7, above.

9. Should the Commission approve a partial transfer of EAI's existing certificate, or issue a new certificate, to Entergy Arkansas LLC to operate the remaining distribution facilities in Missouri?

EAI has a CCN already that covers its existing Missouri electric plant. Only if EAI's remaining Missouri electric plant will be owned or operated by a different entity would a new CCN be required.

Case No. EO-2013-0431:

1. Does the Commission have jurisdiction over this matter?

Yes, the Commission has jurisdiction over this matter, both to hear and determine the questions presented by the application and to grant, or to refuse to grant, or to grant with conditions, the requested relief.

In its position on Issue No. 1 in Case No. EO-2013-0396, above, Staff explains that the facts asserted by the Joint Applicants in their application establish that EAI is an electrical corporation and thus a public utility subject to the jurisdiction of this Commission.¹⁹ It is the Commission's position that a Missouri regulated electric utility must obtain permission from the Commission to transfer functional control of any part of its electric plant to MISO under § 393.190.1, RSMo.²⁰ As with the transfer of ownership of electric plant that is the primary subject of Case No. EO-2013-0396, the Commission must grant the application unless it is shown to be detrimental to the public.²¹

Additionally, Staff has previously had occasion to refer the Commission to EAI's reference to PURPA Section 205(a):²² “

Respectfully, in the event the Commission does not act within the time requested, EAI reserves the right to take appropriate action, including filing a petition under PURPA Section 205(a), to ensure against delays to its integration into MISO, which is essential for EAI to continue providing interstate transmission service upon its exit from the Entergy System Agreement in December of this year.

Section 205(a) of the Public Utility Regulatory Policies Act of 1978 (“PURPA”), codified at 16 U.S.C. § 824a-1, provides:

(a) State laws

The Commission [FERC] may, on its own motion, and shall, on application of any person or governmental entity, after public notice and notice to the Governor of the affected State and after affording an opportunity for public hearing, exempt electric utilities, in whole or in part, from any provision of State law, or from any State rule or regulation, which prohibits or prevents the voluntary coordination of electric utilities, including any agreement for central dispatch, if the Commission

¹⁹ See pp. 3-6, *supra*.

²⁰ See e.g. *In the Matter of the Application of Union Electric Company*, Case No. EO-2011-0128 (**Report and Order**, issued April 19, 2012), p. 19.

²¹ *Id.*, at pp. 19-20; and see discussion above at p. 6, *supra*.

²² EAI's *Motion for Reconsideration*, p. 5 n. 4 (filed April 29, 2013).

determines that such voluntary coordination is designed to obtain economical utilization of facilities and resources in any area. No such exemption may be granted if the Commission finds that such provision of State law, or rule or regulation—

(1) is required by any authority of Federal law, or

(2) is designed to protect public health, safety, or welfare, or the environment or conserve energy or is designed to mitigate the effects of emergencies resulting from fuel shortages.

Although it is irrelevant to the question of the Commission's jurisdiction that EAI has no retail customers in Missouri and has no Missouri tariffs, those points *are* relevant to the degree of scrutiny that the Commission should devote to EAI's application to transfer functional control of its transmission assets to MISO. This Commission has never asserted jurisdiction over the Southwest Power Pool ("SPP") or MISO, although both exercise functional control of transmission lines in Missouri. It also has never asserted that any entity with transmission plant that engages only in wholesale transactions in Missouri is required to obtain Commission authority to transfer functional control of its transmission facilities to a FERC-approved entity such as an RTO or Independent System Operator ("ISO"). Ironically, Intervenor KCPL's and GMO's affiliate Transource Missouri, LLC, is presently seeking a CCN from this Commission in Case No. EA-2013-0098 for two transmission lines in Missouri. Although both transmission lines are SPP-approved projects, Transource Missouri is not seeking, and has not indicated that it will seek, authority from this Commission to transfer functional control of those transmission lines to the SPP.

In summary, Staff is aware of no cognizable detriments to the public that will likely occur if functional control of EAI's transmission plant is transferred to MISO. As to the matter of increased costs, FERC-approved interstate transmission rates are just and

reasonable as a matter of law. They cannot be challenged before this Commission and the Commission should not consider them when determining the application.

2. Should the Commission find and conclude that the proposed MISO integration is not detrimental to the public interest in Missouri?

Yes, see Staff's position on Issue No. 1, above.

3. Has EAI met its burden to provide sufficient information to the Commission so that the Commission may make a determination regarding whether the transfer of functional control of EAI's Missouri transmission assets to MISO is not detrimental to the public interest?

Yes, see Staff's position on Issue No. 1, above.

4. Has EAI documented and supported the increase in transmission rates that is likely to occur as a result of the transfer of functional control to MISO?

Assertions that rates will increase are irrelevant, in Staff's opinion, given that interstate transmission rates are set by the FERC and not by this Commission and are just and reasonable as a matter of law. In any event, cost must be weighed against the value of any benefits conferred.²³ It is Staff's opinion that the projected benefits of the Transaction outweigh its likely costs.

5. Has EAI adequately addressed the issues of safety and reliability that may arise as a result of the proposed transaction?

Yes, see Staff's position on Issue No. 1, above.

²³ *Id.*

6. Has EAI demonstrated that there will be no net detriment to Missouri transmission operations and the power market seam in Missouri as a result of the proposed transaction?

Yes, see Staff's position on Issue No. 1, above.

7. Has EAI demonstrated any incremental benefit to Missouri customers that will offset the projected increases in transmission rates caused by the application of Through and Out rates as a result of transmission service moving to the MISO Tariff?

As to the matter of increased costs, FERC-approved interstate transmission rates are just and reasonable as a matter of law. They cannot be challenged before this Commission and the Commission should not consider them when determining the application. It is Staff's opinion that the projected benefits of the Transaction outweigh its likely costs.

8. Has EAI demonstrated a net benefit to Missouri customers that will offset the rate impacts to such customers as a result of the decrease in KCP&L's off-system sales margin?

As to the matter of increased costs, FERC-approved interstate transmission rates are just and reasonable as a matter of law. They cannot be challenged before this Commission and the Commission should not consider them when determining the application. It is Staff's opinion that the projected benefits of the Transaction outweigh its likely costs.

9. Has EAI demonstrated that KCP&L, GMO, Empire, and MJMEUC will be held harmless with respect to cost compensation due to EAI's voluntary choice to place its transmission assets under MISO?

As to the matter of increased costs, FERC-approved interstate transmission rates are just and reasonable as a matter of law. They cannot be challenged before this Commission and the Commission should not consider them when determining the application.

10. Are there conditions that the Commission could impose on this transfer that would allow for a finding that the transfer of functional control is not detrimental to the public interest?

Staff does not believe that any conditions are appropriate.

REQUEST TO TAKE ADMINISTRATIVE NOTICE

KCPL and GMO argue that moving from the Entergy System Agreement to the MISO Tariff will more than double GMO's transmission costs; however, in GMO's last two general electric rate cases the Commission decided that GMO's ratepayers would not bear the transmission costs from GMO's Crossroads Energy Center, and the Western District Court of Appeals recently affirmed the Commission's decision in File No. ER-2010-0356. Staff requests the Commission to take notice of the following:

- The Commission's findings at pages 53 and 58 of its January 9, 2013, ***Report and Order in In the Matter of KCP&L Greater Missouri Operations Company's Request for Authority to Implement a General Rate Increase for Electric Service***, Case No. ER-2012-0175, that follow:

1. GMO's MPS service area receives part of its power from Crossroads Energy Center ("Crossroads"), a generating facility in Clarksdale, Mississippi.
2. In the previous rulings, the Commission determined that the fair market value of Crossroads was \$61.8 million before depreciation and deferred taxes.
3. In the previous rulings, the Commission denied the costs of transmitting power from Crossroads to MPS territory.

* * * *

1. Crossroads is 500 miles from GMO's MPS territory.
2. Between the territory of MPS and Crossroads are the territories of regional transmission organizations ("RTOs"). RTOs collect payment for the transmission of power through their territories. GMO does not belong to all those RTOs so GMO must pay higher fees for transporting power than to an RTO of which GMO is a member.
3. There are generating facilities closer, including Dogwood's facility and the South Harper plant. Even though Crossroads provides power for GMO only during half of the days in the summer, GMO pays about \$5.2 million to transmit power from Crossroads all year round. The high cost of transmission is not outweighed by lower fuel costs in Mississippi.

- and the following conclusions of law and decision found on pages 58 to 59 of that *Report and Order*:

GMO has not carried its burden of proof on transmission costs. GMO alleges that the lower price of fuel in Mississippi outweighs the cost of transmission. The Commission has found that the evidence preponderates otherwise.

GMO also argues that the Commission must include transmission costs because FERC has approved a rate for that service. In support, GMO cites opinions providing that the Commission cannot nullify FERC's rate or any other FERC ruling.

But as Dogwood explains, and Staff and MEGG agree, those opinions do not bar the Commission from determining the prudence of buying power from Crossroads. For example:

Without deciding this issue, we may assume that a particular *quantity* of power procured by a utility from a particular source could be deemed unreasonably excessive if lower cost power is available elsewhere, even though the higher cost power actually purchased is obtained at a FERC-approved, and therefore reasonable, *price*.

In other *words*, FERC's rate-setting for a facility requires neither the purchase of power, nor approval of that purchase, from that facility.

Moreover, in the presence of a FERC-approved rate, the courts have opined that review of cost prudence remains within the Commission's jurisdiction.

Regarding the states' traditional power to consider the prudence of a retailer's purchasing decision in setting retail rates, we find no reason why utilities must be permitted to recover costs that are imprudently incurred; those should be borne by the stockholders, not the rate payers. Although Nantahala underscores that a state cannot independently pass upon the reasonableness of a wholesale rate on file with FERC, it in no way undermines the long-standing notion that a state commission may legitimately inquire into

whether the retailer prudently chose to pay the FERC-approved wholesale rate of one source, as opposed to the lower rate of another source.

And to recognize the marginal value of purchased power from Crossroads does not constitute an endorsement of its inflated cost.

Therefore, the Commission concludes that including the Crossroads transmission costs does not support safe and adequate service at just and reasonable rates, and the Commission will deny those costs.

Footnotes omitted.

- The Missouri Western District Court of Appeals May 14, 2013, opinion in ***State ex rel. KCP&L Greater Missouri Operations Company v. Missouri Public Service Commission***, Case No. WD75038, upholding the Commission's decision on the same issue in GMO's previous general electric rate case, Case No. ER-2010-0356, disallowing the costs of transmitting power from Crossroads to GMO's MPS rate district.
- That the SPP is a signatory to the separate stipulations and agreements filed May 16, 2013, in the cases ***In the Matter of the Application of Kansas City Power & Light Company for Authority to Extend the Transfer of Functional Control of Certain Transmission Assets to the Southwest Power Pool, Inc.***, Case No. EO-2012-0135, and ***In the Matter of the Application of KCP&L Greater Missouri Operations Company for Authority to Extend the Transfer of Functional Control of Certain Transmission Assets to the Southwest Power Pool, Inc.***,

Case No. EO-2012-0136, where the following provision is on page five of each:

(f) Joint Operating Agreements Provision

As part of this Stipulation, SPP agrees to use commercially reasonable efforts to further develop, maintain and improve joint operating agreements or seams agreements with its neighboring transmission providers, as applicable (currently Associated Electric Cooperative Inc.; Entergy Corporation; Midcontinent Independent System Operator ("MISO"); and Western Area Power Administration) for the benefit of SPP's members and Missouri ratepayers.

Staff also requests that the Commission take official notice of the following, which include matters over which the Commission has not asserted jurisdiction:

- That this Commission has never asserted jurisdiction over the ISOs/RTOs, SPP or MISO, although both exercise functional control of transmission lines in Missouri.
- That this Commission has never asserted that ITC Midwest LLC, Entergy Arkansas, Inc., Interstate Power and Light Company, Associated Electric Cooperative, Inc., or any other entity with transmission lines but no retail customers in Missouri is required to obtain Commission authority to transfer functional control of its transmission facilities to a RTO, ISO, ICT or other FERC-approved entity.

That KCPL's and GMO's affiliate Transource Missouri, LLC, which is seeking a line CCN from this Commission in Case No. EA-2013-0098 for two transmission lines in Missouri that are SPP-approved projects, is not seeking, and has not indicated that it will seek, authority from this Commission to transfer functional control of those

transmission lines to the SPP when those transmission lines are completed.

PROCEDURAL NOTE

Staff has not sponsored any witnesses or filed testimony in these matters because Staff does not believe that a Staff witness would add relevant testimony beyond that provided by the Joint Applicants. However, Daniel Beck, P.E., will be available during the hearing on June 18 and 19, 2013, to respond to any questions that the Commission chooses to pose to him.

WHEREFORE, Staff prays that the Commission will accept its Statement of Position on the Issues.

Respectfully submitted,

s/ Kevin A. Thompson
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **14th day of June, 2013**, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

/s/ Kevin A. Thompson