

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE 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.)	Case No. ER-2014-0370
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**JOINT RESPONSE IN OPPOSITION TO
PROPOSED PROCEDURAL SCHEDULE**

COME NOW the Missouri Office of the Public Counsel, Sierra Club, Consumers Council of Missouri, and the Missouri Industrial Energy Consumers (“Joint Parties”), and for their Joint Response in Opposition to the Proposed Procedural Schedule, respectfully state:

1. On December 3, 2014, Kansas City Power & Light Company (KCPL) filed a proposed procedural schedule that was agreed to by KCPL, the Commission’s Staff, City of Kansas City, Missouri Division of Energy, Brightergy, LLC, IBEW Unions, Laclede Gas Company d/b/a Missouri Gas Energy, and Midwest Energy Consumers Group (EFIS No. 63).

2. Footnote 2 of the proposed procedural schedule states:

The Moving Parties intend and understand that the End of True-up Period is the date after which expenditures made by KCP&L are not eligible for consideration in this general rate case. The Moving Parties agree that this does not mean, however, that the La Cygne Environmental Project must meet in-service criteria by May 31, 2015. So long as KCP&L can establish in True-up Direct Testimony that in-service criteria for the La Cygne Environmental Project have been met, and the Commission determines that the La Cygne Environmental Project is in-service, the Moving Parties agree that capital expenditures associated with the project recorded through May 31, 2015 – whether recorded at May 31, 2015 in plant-in-service or construction work in progress or retirement work in progress accounts – will be eligible for inclusion in rate base in this general rate case.

3. The Joint Parties oppose the procedure proposed by Footnote 2 because if the La Cygne upgrades are not in service by May 31, 2015, the setting of rates would violate the *matching principle* and, in turn, constitute single-issue ratemaking by basing costs on something other than a measurement of all costs and revenues at a single point in time. § 393.270.4, RSMo Supp. 2013.¹ The Commission recently explained the matching principle:

“The *matching principle* is simply that rates should be based on a measurement of costs and revenues at a single point in time. Updating some costs or revenues at a different time than other costs and revenues risks throwing the measurements out of balance and creating a single-issue ratemaking problem. For example, updating only a falling cost in one area might miss a corresponding rising cost in another area, thereby showing a false picture of the company's overall level of costs.”²

4. In KCPL’s October 30, 2014 application for a proposed rate increase that initiated this case (EFIS No. 6), KCPL proposed the following:

This Application and the attached appendices and testimony filed on behalf of KCP&L in this proceeding reflect historical data and analysis concerning KCP&L’s operations, based on a test year ending March 31, 2014 and projections through April 30, 2015. In this regard it should be noted that based on the actual filing date of October 30, 2014, KCP&L expects the actual true-up date to be May 31, 2015.

KCPL already seeks a true-up period that is over a year (14 months) from the test year period. In KCPL’s last two rate cases, Case Nos. ER-2012-0174 and ER-2010-0355, the true-up period was no more than a year from the test year (11 months and 12 months respectively).³ KCPL’s requested true-up period is, therefore, already pushing the

¹ All statutory references are to Revised Statutes of Missouri Supp. 2013 unless otherwise noted.

² Case No. SR-2013-0016, *In the Matter of the Request for an Increase in Sewer Operating Revenues of Emerald Pointe Utility Company*, Report and Order, pp. 32-33 (July 20, 2013).

³ Case No. ER-2012-0174, *In the Matter of Kansas City Power & Light Company’s Request for Authority to Implement A General Rate Increase for Electric Service*, Order Determining Relevant Periods and Other Matters, April 19, 2012, p.1; Case No. ER-2010-0355, *In the Matter*

boundaries of violating the matching principle by reaching well beyond what is typical for updates. The proposed procedural schedule would potentially magnify the matching principle violation in that KCPL would have until true-up direct testimony, July 7, 2015, to have the La Cygne Environmental Project in service and still be allowed to include associated costs in rates. In other words, KCPL would be allowed to include costs for plant that was not in service during either the test year or the true-up period, and that did not go into service until 16 months after the test year period. This matching principle violation should be avoided by rejecting the portion of the proposed schedule that proposes this abnormal and unreasonable procedure.

5. The problem that KCPL now seeks to remedy by violating the matching principle was created and caused solely by KCPL when KCPL chose to file its rate case in October. A more prudent decision would have been to delay the filing of the rate case to ensure that the La Cygne upgrades were in-service within the test year or within a reasonable update period. If KCPL wishes to include the La Cygne upgrade costs in rate base it should either ensure that the new plant is in-service before the May 31, 2015 end of the true-up period, or withdraw and re-file its case.

6. The Commission should also recognize that allowing costs to be based on construction work in progress (CWIP) would potentially violate state law. Section 393.135, RSMo states:

Charges based on nonoperational property of electrical corporation prohibited.

of Kansas City Power & Light Company for Authority to File Tariff Increasing Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company, Order Approving Non-Unanimous Stipulation and Agreement, Setting Procedural Schedule, and Clarifying Order Regarding Construction and Prudence Audit, August 18, 2010, p. 2.

393.135. Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.

(Adopted by Initiative, Proposition No. 1, November 2, 1976)

Accordingly, basing rates on costs that were CWIP during the test year and update period could be considered a violation of § 393.135, RSMo.

7. In a similar past case, Southwestern Bell Telephone Company proposed to include CWIP in rates that went in service beyond the test year and true-up period, arguing “that the plant would be in service by the time of the order’s effective date.”⁴ The Commission rejected the request and the Commission’s order was affirmed on appeal.⁵ The Court of Appeals explained:

Even though that span of time be short and the facility may be expected to be in use before the commencement of the new period for which rates are being set, nevertheless there is good reason not to include the short term construction in the rate base.

The accepted way in which to establish future rates is to select a test year upon the basis of which past costs and revenues can be ascertained as a starting point for future projection. In the case of construction work in progress, whether long term or short term, the facility has not been in use during the test year and hence no revenues from the use of that facility or reduction in expenses accruing from that facility has been reflected in the test year figures. Thus, to put into the equation the cost of those facilities without consideration of counterbalancing benefits would warp the projections.⁶

Likewise, in the present case, allowing rates to be based on costs incurred for plant that was not in service during *either* the test year or true-up period would violate the test-year concept of basing rates upon a snapshot in time.

⁴ *State ex rel. Southwestern Bell Telephone Co. v. P.S.C.*, 645 S.W.2d 44 (Mo. App. 1982).

⁵ *Id.*

⁶ *Id.*

8. In summary, the Joint Parties urge the Commission to deny those portions of the proposed procedural schedule that would reach outside of the test year and the already-generous true-up period. The portions of the proposed schedule to which the Joint Parties object are Footnote 2 and the “alternative” schedules proposed in Paragraph 8. The Joint Parties are otherwise supportive of the remaining paragraphs in the proposed procedural schedule, including the discovery procedures, local public hearings, the customer notice, a March 31, 2014 test year as updated through December 31, 2014, and a true-up period ending May 31, 2015.

WHEREFORE, the Joint Parties respectfully offer this reply in opposition to the proposed procedural schedule.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 10th day of December 2014.

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