

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 4th day of November, 2015.

In the Matter of Kansas City Power & Light)
Company's Filing for Approval of Demand-Side) **File No. EO-2014-0095**
Programs and for Authority to Establish A)
Demand-Side Programs Investment Mechanism)

ORDER DENYING PUBLIC COUNSEL'S REQUEST FOR ORDER

Issue Date: November 4, 2015

Effective Date: November 14, 2015

The Commission approved a stipulation and agreement on June 5, 2014, whereby Kansas City Power & Light Company (KCP&L) was granted approval of Demand-Side Programs, and was given authority to establish a Demand-Side Investment Mechanism (DSIM) as contemplated by the Missouri Energy Efficiency Investment Act (MEEIA) and the Commission's implementing regulations. On October 16, 2015, the Office of the Public Counsel filed a request asking the Commission to issue an order directing KCP&L to either stop MEEIA program activity once it reaches 120 percent of its approved program budget, or to require KCP&L to apply for approval to modify its MEEIA program budget to reflect the increased spending. The Commission ordered that any party wishing to respond to Public Counsel's motion do so no later than October 26. KCP&L responded on that date. Public Counsel replied on November 3. No other party has responded.

Public Counsel's Request for Order explains that the Commission approved a \$19,175,842 budget for KCP&L's MEEIA portfolio. Information provided by KCP&L shows

that the company is on pace to exceed that budget by more than 20 percent during the remaining months of the MEEIA cycle, which ends on December 31, 2015. Public Counsel is concerned that KCP&L will “illegally” over-collect program costs if the Commission does not exercise oversight of the company’s MEEIA budget to either forbid or authorize company spending in excess of 120 percent of the authorized budget. For that reason, Public Counsel asks the Commission to either 1) issue an order directing KCP&L to stop MEEIA program activity once the company reaches 120 percent of the approved program budget, or 2) issue an order requiring KCP&L to apply for approval to modify its MEEIA program budget pursuant to 4 CSR 240-20.094(4).

KCP&L’s response explains that the company’s most recent DSM quarterly report shows that as of June 30, 2015, the company has not exceeded its MEEIA portfolio budget. However, KCP&L confirms that it projects that the information it will have available by November 6, will show that its portfolio budget will be near, or may exceed the 120 percent level. Ultimately, KCP&L expects to exceed its MEEIA portfolio budget by 120 percent or more.

Public Counsel’s Request for Order asks the Commission to take one of two actions. The first action would be to order KCP&L to stop MEEIA program activity once it reaches 120 percent of the approved MEEIA budget. Public Counsel cites, and the Commission finds, no authority in regulation or statute that would allow the Commission to take such action. Further, neither the MEEIA statute,¹ nor the Commission’s implementing regulations make amounts KCP&L may spend in excess of 120 percent of its budget “illegal” as asserted by Public Counsel.

¹ Section 393.1075, RSMo (Cum. Supp. 2013).

To the contrary, rather than create a firm ceiling on the utility's spending, the Commission's regulation provides that when such spending varies from its approved MEEIA budget by more than 20 percent, the utility is to file an application for approval of modifications to its demand-side programs pursuant to 4 CSR 240-20.094(4). The Commission then has thirty days to "approve, approve with modification acceptable to the electric utility, or reject" that application. KCP&L indicates it will file such an application when it exceeds its budget.

Public Counsel's alternative proposal in its Request for Order is that the Commission order KCP&L to file the application that it is required to file by 4 CSR 240-20.094(4). KCP&L is already obligated to comply with the regulation, and it has indicated it is aware of that obligation and will file that application when it is appropriate to do so. There is no need for the Commission to order the company to comply with the regulation.

Every order or decision of the Commission becomes effective in thirty days unless some other time is specified.² Because KCP&L may soon file its application for approval of modifications pursuant to 4 CSR 240-20.094(4), the existence of Public Counsel's unresolved Request for Order might cause confusion. Therefore, the Commission will make this order effective in ten days.

² Section 386.490.2, RSMo (Cum. Supp. 2013).

THE COMMISSION ORDERS THAT:

1. Public Counsel's Request for Order is denied.
2. This order shall become effective on November 14, 2015.



BY THE COMMISSION

Morris L. Woodruff

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and
Coleman, CC., concur.

Woodruff, Chief Regulatory Law Judge