

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

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

REQUEST FOR ORDER

COMES NOW the Office of the Public Counsel (“OPC” of “Public Counsel”) and requests that the Missouri Public Service Commission (“Commission”) 1) issue an Order directing Kansas City Power & Light Company (“KCPL”) to stop MEEIA program activity once the company reaches 120% of the approved program budget, or 2) issue an order requiring the Company to file an application for approval to modify its MEEIA program budget pursuant to 4 CSR 240-20.094(4).

1. The Missouri Energy Efficiency Investment Act (“MEEIA”) allows the Company to “implement commission-approved demand-side programs.” Mo. Rev. Stat. § 393.1075.4. Further the law specifically prohibits recovery for MEEIA programs unless the plan is approved by the Commission (*Id.*) On June 5, 2014, the Commission issued an order approving a stipulation and agreement resulting in KCPL’s current MEEIA portfolio including the programs, energy savings targets, and budget (Doc. No. 92).

2. The Company must operate its MEEIA programs within the confines of a Commission-approved budget. However, the Commission’s rules provide some flexibility surrounding the level of program costs. This flexibility is limited by Commission Rule 4 CSR 240-20.094(4). That rule requires the Company to “file an application with the commission for modification of demand-side programs by filing information and documentation required by 4 CSR 240-3.164(4) when there is a variance of twenty percent (20%) or more in the budget and/or

any program design modification[.]” 4 CSR 240-20.094(4). After the Company makes the required application for approval of modification to its MEEIA program, “[t]he commission shall approve, approve with modification acceptable to the utility, or reject such applications for approval of modification of demand-side programs[.]” (*Id.*) This rule makes clear that when the program costs vary by 20% or more, the MEEIA program has become so different from the approved plan that further Commission oversight and approval is necessary.

3. If the Company is going to exceed that budget by more than 20%, or otherwise change its programs, the Commission’s rules require that KCPL submit an application seeking authority to do so. *See* 4 CSR 240-20.094(4). Importantly, Commission approval protects ratepayers because it prevents the company from spending unlimited money – to be collected from ratepayers – on its MEEIA programs.

4. Public Counsel’s *Request for Order* relates to the increased level of program costs being incurred by KCPL. The Commission’s order approving KCPL’s MEEIA portfolio established a \$19,175,842 budget for KCPL’s MEEIA portfolio (Doc. No. 92). The Company will exceed that budget. KCPL’s DSM quarterly report shows program cost expenditures totaling ** as of June 30, 2015. The workpapers filed as Schedule TMR-2 in KCPL’s most recent DSIM rider rate adjustment show that the Company is on pace to collect an additional ** from ratepayers during the remaining months of the MEEIA cycle. *In the Matter of Kansas City Power & Light Company's Second Demand Side Investment Mechanism Rider Rate Adjustment and True-Up*, Case No. ER-2015-0138, Doc. No. 2, Schedule TMR-2. The total amount collected for program costs would be **. This is a **% variance from the approved program budget.

5. Based on conversations with KCPL representatives, Public Counsel believes that the Company does not plan to file the required application for variance until *after* it has collected program costs in excess of the allowed variance from the Commission-approved budget. KCPL's approach would divest the Commission of its statutory oversight of the MEEIA programs. Further, seeking approval after-the-fact deprives Commission Rule 4 CSR 240-20.094(4) of any meaning and eviscerates an essential ratepayer protection.

6. Absent a Commission order requiring KCPL to stop MEEIA program activity once the Company reaches 120% of the approved program budget, the Company will illegally collect program costs and otherwise conduct its MEEIA programs in a manner not authorized by the Commission. In order to prevent illegal over-collection from ratepayers, Public Counsel requests that the Commission issue an order directing KCPL to stop MEEIA program activity once the company reaches 120% of the approved program budget. Alternatively, Public Counsel requests that the Commission order the Company to file an application to modify its budget or programs so that the Commission can provide meaningful oversight and approve, reject, or modify the proposed changes pursuant to 4 CSR 240-20.094(4).

WHEREFORE Public Counsel requests that the Commission 1) issue an Order directing Kansas City Power & Light Company ("KCPL") to stop MEEIA program activity once the company reaches 120% of the approved program budget, or 2) issue an order requiring the Company to file an application for approval to modify its MEEIA program budget pursuant to 4 CSR 240-20.094(4).

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Tim Opitz

Tim Opitz
Senior Counsel
Missouri Bar No. 65082
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5324
(573) 751-5562 FAX
Timothy.opitz@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 16th day of October 2015:

Missouri Public Service Commission

Kevin Thompson
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Kevin.thompson@psc.mo.gov

Missouri Public Service Commission

Office General Counsel
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Renew Missouri

Andrew J Linhares
910 E Broadway, Ste 205
Columbia, MO 65201
Andrew@renewmo.org

Sierra Club

Thomas Cmar
1101 Lake Street, Ste. 405B
Oak Park, IL 60301
tcmr@earthjustice.org

Sierra Club

Henry B Robertson
319 N. Fourth St., Suite 800
St. Louis, MO 63102
hrobertson@greatriverslaw.org

Sierra Club

Jill M Tauber
1625 Massachusetts Ave., NW Ste. 702
Washington, DC 20036
jtauber@earthjustice.org

Union Electric Company
James B Lowery
111 South Ninth St., Suite 200
P.O. Box 918
Columbia, MO 65205-0918
lowery@smithlewis.com

Union Electric Company
Wendy Tatro
1901 Chouteau Avenue
St. Louis, MO 63103-6149
AmerenMOService@ameren.com

Natural Resources Defense Council
Henry B Robertson
319 N. Fourth St., Suite 800
St. Louis, MO 63102
hrobertson@greatriverslaw.org

Natural Resources Defense Council
David Weiskopf
111 Sutter St.
San Francisco, CA 94104
DWeiskopf@nextgenamerican.org

Brightergy, LLC
Carson M Hinderks
7400 W. 110th Street, Suite 750
Overland Park, KS 66210-2362
carson@smizak-law.com

Brightergy, LLC
James P Zakoura
750 Commerce Plaza II
7400 West 110th Street
Overland Park, KS 66210-2362
jim@smizak-law.com

Empire District Electric Company, The
Diana C Carter
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102
DCarter@brydonlaw.com

Kansas City Power & Light Company
James M Fischer
101 Madison Street, Suite 400
Jefferson City, MO 35101
jfischerpc@aol.com

Kansas City Power & Light Company
Roger W Steiner
1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@kcpl.com

MC Power Companies, Inc.
Jeremiah D Finnegan
204 W. Linwood Blvd.
Kansas City, MO 64111
jeremiah@jfinneganlaw.com

Midwest Energy Consumers Group
David Woodsmall
807 Winston Court
Jefferson City, MO 65101
david.woodsmall@woodsmalllaw.com

Missouri Division of Energy
Alexander Antal
301 West High Street
P.O. Box 1157
Jefferson City, MO 65102
alexander.antal@ded.mo.gov

**Missouri Industrial Energy Consumers
(MIEC)**

Diana M Vuylsteke
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

/s/ Tim Opitz
