

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 30th
day of July, 1991.

In the matter of the application of	)	
Kansas City Power & Light Company for	)	
accounting authority order pertaining	)	<u>Case No. EO-91-305</u>
to AMAX coal supply agreement litigation	)	
settlement amounts.	)	

ACCOUNTING AUTHORITY ORDER

On April 5, 1991, Kansas City Power & Light Company (KCPL) filed an application requesting an accounting authority order pertaining to certain litigation costs and settlement amounts incurred and paid by KCPL resulting from the American Metal Climax, Inc. AMAX Coal Company Division (AMAX) coal supply agreement dated December 31, 1972. In support of its motion, KCPL states that on December 31, 1972, KCPL and Kansas Gas and Electric Company (KGE) entered into an agreement (the agreement) with AMAX for a period of twenty (20) years and four (4) months to assure a stable supply of coal for LaCygne Unit 2 station, one of a two-unit coal-fired steam electric generating facility located in Linn County, Kansas, equally owned by KCPL and KGE. On July 27, 1990, KCPL and KGE filed suit in the United States District Court for the District of Kansas (the Kansas lawsuit) alleging breach of contract relating to AMAX's obligation to accurately and honestly record and calculate production costs utilized to adjust the base price of coal purchased by KCPL under the agreement. KCPL and KGE sought damages for the overpayments made to AMAX based upon the inflated production costs utilized to adjust the base price of coal, as well as an accounting of the production costs passed through to KCPL and KGE under the agreement.

On October 9, 1990, AMAX filed suit against KCPL and KGE in the United States District Court for the Southern District of Indiana (the Indiana lawsuit). In this action, AMAX sought an order compelling arbitration of the dispute between KCPL, KGE and AMAX regarding the production costs utilized to adjust the base price of coal under the agreement.

On or about February 8, 1991, KCPL, KGE and AMAX entered into an agreement of settlement and mutual release which terminated the agreement as of December 31, 1990, disposed of the Kansas and Indiana lawsuits and provided for payment to AMAX of \$17 million (\$8.5 million - KCPL's share). In addition, KCPL, KGE and AMAX entered into a coal supply agreement as of January 1, 1991 (1991 Agreement), whereby KCPL and KGE are obligated to purchase between 1,710,000 and 1,890,000 tons of coal from AMAX during 1991 at a base price of \$3.55 per ton, free on board mine.

KCPL believes that the settlement with AMAX is prudent and in the best interest of its ratepayers since it will reduce the future costs of generating electricity at LaCygne Unit 2. KCPL's analysis shows that the present value of fuel cost savings realized by terminating the agreement and purchasing coal at the base price offered by AMAX or on the spot market is \$15.8 million (KCPL share). When this amount is reduced by the settlement payment to AMAX of \$8.5 million (KCPL share), the net fuel cost savings is \$7.3 million. KCPL argues that this cost reduction exceeds the settlement payment and associated litigation costs of \$114,932 which was necessary to achieve the favorable settlement and includes the cost and fees of outside counsel, expert witness costs and fees, deposition and other discovery costs. KCPL's labor and other costs are not included in the litigation costs.

KCPL requests authority to record the \$8.5 million settlement payment, and the associated litigation costs of \$114,932, as an asset in Account 186,

Miscellaneous Deferred Debits, and to amortize this asset over the period of time that the agreement would have continued to be in effect, to Account 151, Fuel Stock. The percentage of this asset which will be amortized in a particular year will be calculated by dividing the coal tonnage required to be purchased in that year under the agreement by 3,230,000 tons (KCPL's share of the aggregate amount of coal required to be purchased in the years 1991 through 1996). KCPL believes that this accounting treatment is proper and reasonable as these amounts are directly related to the fossil fuel expense to be incurred in the operation of LaCygne Unit 2, and the settlement makes it possible for KCPL to burn lower-cost coal in the unit. In addition, the requested accounting treatment will spread the settlement costs over the same period during which the benefits of the settlement will be enjoyed by KCPL's customers. Furthermore, this accounting treatment is consistent with the accounting treatment afforded the payments KCPL has made pursuant to the 1990 termination of the coal supply agreement with the Pittsburgh and Midway Coal Mining Company (Case No. EO-90-126). KCPL is not requesting, at this time, any particular ratemaking treatment of the agreement settlement amounts, but reserves the right to do so in an appropriate ratemaking proceeding.

On July 16, 1991, the Staff of the Missouri Public Service Commission (Staff) filed its recommendation that KCPL's application for an accounting authority order in this proceeding be approved. In support of its recommendation, Staff stated that KCPL has provided certain materials concerning cost benefit analysis performed by KCPL regarding the termination of the agreement. The material provided to Staff indicates that KCPL should experience approximately \$7.3 million in fuel cost savings as a result of the termination of the agreement. The Staff's review of the materials provided by KCPL has led to the conclusion that KCPL's analysis represents a reasonable estimate of the

cost savings expected to occur from termination of the agreement. Staff contends that the accounting method proposed by KCPL is consistent with the Commission's approach in Case No. EO-90-126 and should be approved.

The Commission is of the opinion that KCPL's request for an accounting authority order should be approved as the ratepayers will benefit from the settlement agreement through significant savings in fuel costs. Additionally, the accounting treatment will spread the settlement costs over the same time period in which the ratepayers will reap the benefits of the settlement agreement.

IT IS THEREFORE ORDERED:

1. That Kansas City Power and Light Company be, and is, hereby authorized to record the settlement payment of \$8.5 million and the associated litigation cost of approximately \$114,932 in the termination of the AMAX coal supply agreement as an asset in Account 186 and to proportionately amortize this amount through December 31, 1996 to Account 151.

2. That nothing in this order shall be considered as a finding by the Commission of the reasonableness of the financing transaction hereinabove nor as an acquiescence in the value placed upon said financial transactions by Kansas City Power and Light Company. Furthermore, the Commission reserves the right to consider the ratemaking to be afforded these financing transactions in any later proceeding.

3. That this order shall become effective on the date hereof.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Rauch, McClure and Perkins,
CC., Concur.
Steinmeier, Chm., and Mueller, C.,
Absent.