

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 10th day of June, 2011.

In the Matter of the Application of Kansas City)
Power & Light Company for Permission and)
Approval and a Certificate of Public Convenience)
And Necessity Authorizing It to Acquire, Construct)
Install, Own, Operate, Maintain, and Otherwise)
Control and Manage Electrical Production and)
Related Facilities in the Smart Grid Project)
Area of Jackson County, Missouri)

File No. EA-2011-0368

ORDER GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY

Issue Date: June 10, 2011

Effective Date: June 15, 2011

On May 6, 2011, Kansas City Power & Light Company (KCPL) applied to the Commission for a certificate of public convenience and necessity granting it authority to construct and operate multiple small solar energy electrical production facilities located in the SmartGrid Demonstration Area in Kansas City, Missouri. KCPL asks the Commission to approve its application by June 15 so that the project can be part of a public demonstration event to be held this summer.

KCPL's application explains that the solar facilities will be located primarily on the rooftops of schools, commercial facilities, and residences within the Demonstration Area. The solar facilities will be small, ranging in size from 100 kW for facilities installed on schools, down to 15 kW for facilities installed at customer residences and 5 kW for a facility to be installed at a KCPL substation. In total, the solar production facilities will have a

nameplate capacity of approximately 180 kW. The contractors installing the solar facilities will obtain any necessary local building permits. The project will be financed using KCPL's general funds and the United States Department of Energy will reimburse KCPL for half of the cost of the Project.

In response to KCPL's application, the Commission established May 23 as the deadline for submission of intervention requests and directed its Staff to file a recommendation by May 27. The Missouri Department of Natural Resources (MDNR) applied to intervene on May 23, and the Commission granted its application to intervene on May 24. No other party has applied to intervene.

Staff and MDNR filed their recommendations on May 27. MDNR advises the Commission to approve KCPL's application as a visible demonstration of distributed solar technology. MDNR believes that placement of rooftop solar units on a diverse selection of buildings in the SmartGrid Demonstration Area will serve the public interest by increasing the public's exposure to this renewable energy alternative.

Staff also advises the Commission to approve KCPL's application. However, Staff is concerned that KCPL's Application does not specify the exact locations where the rooftop solar facilities will be installed. In an amendment to its application filed on May 27, KCPL was able to specify the installation location of two solar facilities, 100 kW to be installed at a school and 5kW to be installed at a KCPL substation. However, KCPL has not yet determined the exact location of the other 75 kW it plans to install.

Staff believes the Missouri Court of Appeals' recent decisions regarding the construction of the South Harper electrical generating plant requires the utility to specify the location of the generation to be built before the Commission can grant a certificate of

convenience and necessity. The first South Harper decision,¹ declares that section 393.170.1, RSMo 2000 requires an electric utility to obtain a certificate of convenience and necessity from the Commission before constructing an electrical generating facility within its service territory. That decision also declares that section 393.170.3, RSMo 2000 requires the Commission to determine contemporaneously with the application whether construction of the electrical generating facility is necessary or convenient for the public service.² Because of that decision, Staff advises the Commission to issue a certificate only for the 105 kW facilities for which KCPL has specifically identified an installation site.

After reviewing the applicable decisions and statutes, as well as the facts described in KCPL's application, the Commission concludes that Staff's interpretation is overly restrictive. The purpose of the statutory requirement is to ensure that the public interest is protected. In the South Harper case the public interest concerned placement of a natural gas-fired turbine electrical generating plant that could potentially disrupt a residential neighborhood without regard to local zoning requirements. In this case, the public interest concerns placement of solar arrays on a few buildings, subject to local building permits and in a way that does not implicate local zoning requirements.

If Staff's interpretation of the requirements of the statute and the court decision were correct, then KCPL would have to come back before the Commission with a new application for a certificate of convenience and necessity each time it identifies a new structure on which it wishes to install a small solar production facility. That would be a waste of resources for both the utility and for the Commission. Instead, the Commission

¹ *Stopaquila.org v. Aquila, Inc.*, 180 S.W. 3d 24 (Mo Ap. W.D. 2005).

² *Id.* at 34.

finds that by specifying the parameters of the area in which it intends to install the described small solar production facilities, KCPL has provided the Commission with sufficient information to satisfy the requirements of the statute.

Section 393.170.1, RSMo 2000 provides that no electrical corporation may begin construction of electric plant until it has obtained the permission and approval of the Commission. Subsection 3 of that statute says the Commission may grant such approval when it determines, after due hearing, that such construction is necessary or convenient for the public service. In this case no party has requested a hearing and the Commission will decide the case based on the submitted pleadings.

Based on KCPL's verified application and the recommendations of Staff and MDNR, the Commission finds that KCPL's plan to install small solar production facilities within the SmartGrid Demonstration Project Area is necessary and convenient for the public service. The Commission will grant KCPL a certificate of public convenience and necessity for that purpose.

KCPL also requests a waiver of Commission Rule 4 CSR 240-4.020(2), which would require KCPL to file notice of a potential contested case sixty days before filing its application for certificate of public convenience and necessity. The Commission will grant that requested waiver.

In granting KCPL a certificate of convenience and necessity, the Commission is approving the overall project to install small solar production facilities within the SmartGrid Demonstration Project area. Additional Commission approval is not required after KCPL determines precisely on which buildings to install those small solar facilities. However, the

Commission will direct KCPL to file a list of the specific locations at which small solar production facilities have been installed after that information is available.

THE COMMISSION ORDERS THAT:

1. Kansas City Power & Light Company is granted a certificate of convenience and necessity to acquire, construct, install, own, operate, maintain and otherwise control and manage a group of distributed solar electrical production facilities with an additive nameplate capacity of approximately 180 kW and related facilities located in the SmartGrid Project Area in Kansas City, Missouri.

2. Kansas City Power & Light Company is granted a waiver from the requirements of Commission Rule 4 CSR 240-4.020(2).

3. Nothing in this order shall be considered a finding by the Commission of the reasonableness of the expenditures herein involved, nor of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the value placed on said property.

4. The Commission reserves the right to consider the ratemaking treatment to be afforded the expenditures and properties herein involved, and the resulting cost of capital, in any later proceeding.

5. This order shall become effective on June 15, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Clayton, Davis, Jarrett,
and Kenney, CC., concur.

Woodruff, Chief Regulatory Law Judge