

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

In the Matter of Kansas City Power &)
Light Company’s Request for Authority) Case No. ER-2016-0285
to Implement a General Rate Increase for)
Electric Service)

THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO ORDER

Comes Now the Office of the Public Counsel and for its response to the Commission’s August 30, 2018, directing the parties to “file a pleading no later than September 7, 2018, advising the Commission on how to proceed to consider this matter on remand” states:

1. In its opinion remanding this case back to the Commission the Court held, “[T]he Public Service Commission erroneously concluded that KCP&L’s electric vehicle charging stations did not constitute ‘electric plant’ within the meaning of § 386.020(14)[, RSMo.]”

2. In its opinion the Court observed, “Our conclusion that KCP&L’s electric vehicle charging stations constitute “electric plant” within the meaning of § 386.020(14) does not leave the Commission without remedy; to the contrary, it provides a basis for the Commission to exercise its full range of regulatory authorities with respect to those stations.” (Footnote omitted).

3. The Court noted, in Footnote 9 of its opinion, that “[t]he Commission's regulatory authorities include the authority to review and approve the rates charged for electricity sold through the charging stations, which would presumably take account of the costs of constructing, maintaining, and operating those stations. *See* §§ 393.130, 393.140.”

4. The Commission's regulatory authorities also include the authority to establish just and reasonable rates, which may mean that KCPL does not recover all of its costs, *e.g.*, if cost-based rates are unreasonable. The Commission's authority in this circumstance is found in § 393.150, RSMo, which provides, "At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the gas corporation, electrical corporation, water corporation or sewer corporation,"

5. Thus, on remand, if supported by the evidence in the record in this case, in exercising its discretion to set just and reasonable rates for providing electric vehicle charging station service, the Commission may set electrical vehicle charging station rates based on the costs KCPL incurs to serve electric vehicles at electrical vehicle charging stations, or set electrical vehicle charging station rates below the costs KCPL incurs to serve electric vehicles at electrical vehicle charging stations. In the latter case, only if the Commission finds that other retail customers benefit should it allow KCPL to recover any of the costs KCPL incurs to serve electric vehicles at electrical vehicle charging stations from those customers, *i.e.*, socialize some of the costs of the stations.

6. The issue of cost recovery here is similar to one the Commission Staff and the Office of the Public Counsel raised in Case No.. GA-95-216 when they both challenged the economic feasibility of UtiliCorp United, Inc. (n/k/a KCP&L Greater Missouri Operations Company), providing natural gas service to retail customers in and about Salem, Missouri. The Commission described their concerns in its Report and Order as follows:

The central, and for all intents and purposes, the only issue raised in this case, and pursued assiduously by the Staff and the OPC, is one

challenging the economic feasibility of the proposed project . The Staff has stated various reasons why the project is not economically sound, and why the project will work to the detriment of the public interest. However, these sub-issues are more appropriately characterized as reasons why the proposal is not an economically sound one.

The Staff's central contention is that the proposed service to the Salem area is not economically feasible for two interconnected reasons. The Staff states that, should cost-based rates be set for the Salem area as a discrete entity, the cost of providing gas service will not be competitive with propane, its direct competitor . The Staff-calculated costs assume, initially, that the cost for providing service to Salem should be borne exclusively by the Salem consumers and should not become a part of the embedded costs for the remainder of the UtiliCorp service area. If this is the case, the Staff maintains that the UtiliCorp feasibility study is grossly understated as to the actual cost per unit of gas supplied to the Salem consumer.

The Staff states that, in addition to grossly undervaluing the cost per unit of gas, UtiliCorp overestimates the number of customer conversions that will take place once the service is offered. The Staff assumes in its estimate that no customer conversion waiver will be granted. In this case, UtiliCorp has also filed a request asking that the Commission grant it authority to provide free conversions to potential customers in the Salem area. Under the current Commission rules, contained in Chapter 14 of 4 CSR 240, providing such free service would be considered a prohibited promotional practice. The Staff is also opposed to granting the requested waiver.

The Staff maintains, in support of its position on feasibility, that the UtiliCorp feasibility study excludes administrative and general costs which should be allocated to the proposed Salem project. The Staff expresses the concern that the remainder of the MPS system will support, and therefore subsidize, the administration and operation of the proposed Salem system.

Finally, the Staff alleges that the anticipated cost of gas delivered to Salem (the transportation rate) is understated because it does not reflect the cost of the proposed Missouri Gas Company pipeline spur from Rolla to Salem and because the transportation rate agreed to by MGC is largely the result of an inappropriate affiliate transaction.

Although the office of Public Counsel states it does not have the resources to independently evaluate the question of feasibility raised by the Staff, OPC states that it supports the Staff position. The OPC states that, if the full cost of all facilities including the cost of the pipeline spur are reflected in the cost of service for the Salem proposal, and those costs are assessed to the Salem area customers only, the resultant rates will not be competitive with propane. It is the principle concern of the OPC that the ratepayers in the Salem

area will be required to absorb some potential operating loss at a later date, after conversion from propane to the UtiliCorp system. The OPC does not feel that this is, therefore, ultimately in the public interest.¹

In response the Commission stated, “In this case, the commission finds the expansion into the Salem area will be allowed, but solely at the risk of the shareholders of UtiliCorp. Should the proposed project fail or, for any reason, prove to be economically inefficient or unsound, the Commission will likely assess project costs and operational losses against UtiliCorp and its shareholders.”²

7. Consistent with what the Commission stated that it was likely to do with the costs of UtiliCorp United’s natural gas distribution system in and about Salem, Missouri, if that system was uneconomic, it is the Office of the Public Counsel’s position that to the extent KCPL recovers its costs to serve electric vehicles at electric vehicle charging stations, it should recover them only from those of its customers who charge their electric vehicles at those electric vehicle charging stations. Thus, if the Commission establishes below cost rates for charging electric vehicles at electric vehicle charging stations, then KCPL would not recover all of its costs to provide electric vehicle charging station service.

8. If the Commission’s electrical vehicle charging stations rate determination on remand has one of the rate impacts addressed in § 386.520.2, RSMo., then pending Case No. ER-2018-0145 is an appropriate place where to implement the rate adjustments referenced in that statute.

Wherefore, the Office of the Public Counsel responds to the Commission’s August 30, 2018, Order Directing Filing as set forth above.

¹ *Report and Order* (August 8, 1995), 4 MoPSC3d 7, 9-10.

² *Id.* at 10.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 7th day of September 2018.

/s/ Nathan Williams