

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

In the Matter of Kansas City Power & Light)
Company's Request for Authority to Implement)
a General Rate Increase for Electric Service) Case No. ER-2012-0174

In the Matter of KCP&L Greater Missouri)
Operations Company's Request for Authority to)
Implement General Rate Increase for Electric)
Service.) Case No. ER-2012-0175

**MECG REPLY TO KCPL AND GMO RESPONSE TO REQUEST
FOR HEARING AND OBJECTION TO AFFIDAVIT**

COMES NOW the Midwest Energy Consumers Group ("MECG") and, for its Reply to the KCPL and GMO Response to Request for Hearing and Objection to Affidavit, respectfully states as follows:

1. Undoubtedly at this point, the Commission must be wondering, when compared to the multitude of other recent rate cases, why these cases have spun so far out of control? The answer is simple. By accepting KCPL and GMO's assertion that compliance tariffs must be completed within a fictional eleven-month timeframe, the Commission has had to ignore a multitude of statutory safeguards and uproot years of regulatory customer protections. At this point, the only way to fix this conundrum is to tap lightly on the brakes and allow customers adequate time to review KCPL and GMO's tariffs and ensure that they comply with the Commission's recent Report and Order. As evidenced by the recent Ameren case, consumers do not raise these arguments simply in an effort to delay the KCPL and GMO rate increases. When provided adequate time in the Ameren case (4 days to review a single set of tariffs in the Ameren case versus 2 ½ days to review three sets of tariffs in these cases), consumers have worked with the

Commission to ensure timely implementation of rates. The current process, however, rejects all notions of reasonableness and, as a result, the Commission has stumbled into a briar patch of statutory and procedural problems.

2. Undoubtedly the Commission should now have become aware that KCPL and GMO will say and do anything in order to rush its rate increase to the customers. **First**, KCPL and GMO will say anything. Specifically, when confronted with OPC's claim that this contested case is no longer under an eleven month time schedule, KCPL and GMO loudly assert that the statutory timeline must apply because this is the same case as that used to consider the originally filed, but rejected, tariff sheets. When MECG claims though that, since it is the same contested case, the statutory safeguards of Section 536.070 must be recognized; KCPL and GMO suddenly change directions and, based largely upon "longstanding practice", KCPL and GMO asserts that this is not the same case. Rather, contrary to its previous position, this has somehow become a different case – a case that is no longer a contested case to which the statutory provisions of Section 536.070 are applicable. Again, in its efforts to rush this rate increase into effect, KCPL and GMO will say anything to mislead the Commission and secure its rate increase.

3. **Second**, KCPL and GMO will do anything to secure its rate increase. Through the course of this hearing, KCPL and GMO repeatedly violated the consumer secured benefits of the KCPL Regulatory Plan. Ultimately, because the Commission failed to address motions to strike that were pending for over five months, the consumers were required to address such violations through negotiations. Now, KCPL and GMO have moved on to other statutory violations. In another pending motion, MECG and the other Industrial Intervenors have detailed how KCPL has refused to recognize the

statutory right to opt-out of energy efficiency costs bestowed on certain large commercial and industrial customers. As demonstrated in those pleadings, it has become a disturbing pattern for KCPL to ignore those provisions of the MEEIA legislation that it finds distasteful.

In the context of this pleading, however, KCPL and GMO have trounced virtually every procedural and statutory safeguard designed to ensure that tariffs actually comply with the Commission's order. KCPL and GMO have worked solely with Staff while refusing to involve any customer group in the interpretation of the Commission's order or the preparation of tariffs. Given this, the Commission should not be surprised then that while Staff claims to have had enough time to review the tariffs, no customer group can make a similar assertion. Simply, because they worked with KCPL and GMO, Staff has had weeks to participate and review the KCPL and GMO tariffs. Consumers, however, have been provided less than three days. KCPL and GMO then further reduce this time to less than four hours by filing a multitude of substitute tariff sheets. Given this, while Staff can claim that the tariffs comply, no consumer has even been able to complete its review. Furthermore, by switching directions and claiming that this is no longer a contested case, KCPL and GMO have sought to avoid all the statutory protections provided by Section 536.070. Additionally, by erroneously arguing that the eleven month timeframe applies to compliance tariffs, KCPL and GMO have once again squeezed the process to the point that consumers will not have sufficient time to prepare and file applications for rehearing. The Commission has repeatedly been chastised for this very offense by the Missouri Supreme Court and even saw that Court vacate several of its orders. Finally, KCPL and GMO, by claiming that this is no longer a contested

case, have sought to suddenly switch the scope of review such that the Commission's order must no longer be based upon competent and substantial evidence. Again, all of this is evidence of a regulated utility running amuck simply in the interest of securing its latest, in a long string, rate increases for its shareholders.

4. In the final analysis, the Commission should recognize that this case has drastically veered off course. The Commission still has the opportunity to fix this unlawful process. Similar to the process it took in the last GMO case, the Commission can simply refuse to rush its consideration of the compliance tariffs. The statutes provide for a 30-day notice and publication period for a reason. To date, KCPL and GMO have failed to provide any legitimate assertion of good cause to deny the consumers the multitude of statutory safeguards that exist. Specifically, KCPL and GMO have not provided any evidence that it will be unable to secure capital or provide safe and adequate service if the statutory safeguards are followed. Rather, to KCPL and GMO, good cause simply amounts to a desire to further inflate shareholder profits at the expense of long-suffering consumers. Absent a legitimate good cause, the Commission should allow the consumers the time necessary to ensure accurate tariffs, up to the thirty days provided by tariff. Surely, this is not much to ask of a Commission that has already imposed over 63% of rate increases for KCPL in the last six years.

WHEREFORE, MECG respectfully requests that the Commission delay its approval of the KCPL and GMO compliance tariffs and allow the consumers adequate opportunity to ensure the accuracy of those tariffs.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.



David L. Woodsmall

Dated: January 22, 2013