

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 TRANSCRIPT OF PROCEEDINGS

5 Prehearing Conference

6 August 23, 2011

7 Jefferson City, Missouri

8 Volume 1

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11 In the Matter of

12 Kansas City Power & Light)

13 Company's Solar Photovoltaic)

14 Rebate Program) File No. ET-2012-0021

15 Schedule SR)

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17 MORRIS L. WOODRUFF, Presiding

 SENIOR REGULATORY LAW JUDGE

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22 REPORTED BY:

 NANCY L. SILVA, RPR, CCR

23 TIGER COURT REPORTING, LLC

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1 JUDGE WOODRUFF: We're on the record.

2 We're here for a prehearing conference in
3 File Nos. ET-2012-0021 and ET-2012-0022, which
4 involve the tariffs of Kansas City Power and Light
5 Company and KCP&L-GMO concerning their solar rebate
6 program.

7 Let's start by taking entries of
8 appearance for this case again, beginning with Staff.

9 MR. WILLIAMS: Is it just one case or both
10 cases?

11 JUDGE WOODRUFF: It's both cases.

12 MR. WILLIAMS: Lewis, did you just join
13 us?

14 MR. MILLS: I did.

15 JUDGE WOODRUFF: All right. We just
16 started.

17 MR. WILLIAMS: We're just taking entries,
18 and we're starting with Staff, so I'm about to give
19 my entry.

20 Nathan Williams, Deputy Counsel,
21 P.O. Box 360, Jefferson City, Missouri 65102,
22 appearing on behalf of the Staff of the Public
23 Service Commission.

24 JUDGE WOODRUFF: All right. For the
25 companies.

1 MR. DORITY: Thank you, Judge Woodruff.
2 Larry W. Dority, with Fischer & Dority, P.C.,
3 appearing on behalf of Kansas City Power and Light
4 Company and KCP&L Greater Missouri Operations
5 Company.

6 JUDGE WOODRUFF: Okay. For public
7 counsel.

8 MR. ZAKOURA: Thank you, your Honor.
9 Jim Zakoura, Z-a-k-o-u-r-a, and Arthur
10 Rhodes, R-h-o-d-e-s, Smithyman & Zakoura, Overland
11 Park, Kansas, on behalf of Brightergy.

12 JUDGE WOODRUFF: Okay. And for public
13 counsel.

14 MR. MILLS: On behalf of the Office of
15 Public Counsel and the public, my name is Lewis
16 Mills. My address is P.O. Box 2230, Jefferson City,
17 Missouri 65102.

18 JUDGE WOODRUFF: All right. Well, thank
19 you, gentlemen. I believe that's all the parties,
20 and I think I know how this is going to go, but
21 Mr. Dority, I'll let you explain where KCP&L is going
22 with this

23 MR. DORITY: Thank you, Judge.

24 As Mr. Byrne had previously indicated in
25 the Ameren Missouri prehearing that took place

1 earlier this morning, the impetus for the tariff
2 filings by both KCP&L and GMO were Circuit Judge Dan
3 Greene's judgment that was entered on June 29,
4 2011, in the Cole County Circuit Court.

5 And as a previous pleading that the
6 companies had filed in these matters had indicated,
7 the filings were made simply to implement the law
8 pursuant to that judgment and to protect itself from
9 claims that the companies were making unlawful
10 payments to certain customers.

11 As we are all aware, in the interim, the
12 judge, on his own motion, has set aside that previous
13 judgment, and it's also our understanding that the
14 Missouri Retailers Association have, in fact,
15 withdrawn from that proceeding, so I think we all
16 contemplate that the judge will be issuing a revised
17 order or judgment that will most likely carve out the
18 solar rebate portion of his judgment that had
19 previously found them to be unconstitutional, and at
20 that time we would be in a position to withdraw the
21 tariffs, but until that takes place, we would like to
22 have a resolution similar to what your Honor did for
23 Ameren Missouri this morning, and that is to simply
24 direct the parties to file a procedural schedule
25 three weeks from today, and I think again we would

1 all contemplate that in that intervening time frame,
2 hopefully Judge Greene will issue an order that will
3 totally resolve that matter.

4 JUDGE WOODRUFF: Any other parties want to
5 be heard on that?

6 MR. WILLIAMS: Judge, it's Staff's
7 understanding that, as Mr. Dority said, Judge Greene
8 issued an order -- or a judgment finding the solar
9 rebate provision of the statutes to be
10 unconstitutional, and then within the thirty days
11 over which he retained jurisdiction, he set that
12 judgment aside and, subsequently, the party who had
13 raised the constitutionality of the solar rebates
14 issue and put it within the Court's jurisdiction, the
15 Missouri Retailers Association, voluntarily dismissed
16 that issue from the case, so it's Staff's
17 understanding that Judge Greene doesn't have that
18 issue in front of him to act upon and it would be
19 beyond his jurisdiction to do so; however,
20 understanding that the tariff filings have been
21 suspended until December and in anticipation the
22 companies will take some action within the next few
23 weeks, Staff doesn't oppose a procedural schedule
24 being filed by the 13th of September or withdrawal of
25 the tariff sheets depending on what happens in the

1 intervening time frame.

2 JUDGE WOODRUFF: Brightergy or public
3 counsel wish to be heard?

4 On behalf of Brightergy, Judge, we would
5 support the position of the Staff.

6 JUDGE WOODRUFF: All right.

7 Mr. Mills?

8 MR. MILLS: Judge, I don't have anything
9 to add. Thank you.

10 JUDGE WOODRUFF: All right. Well, I will
11 issue the same order that I did in the Ameren case
12 about an hour ago that will direct the parties to
13 file a proposed procedural schedule by September 13,
14 2011. That, of course, will not be necessary if the
15 tariffs are withdrawn before that time.

16 MR. WILLIAMS: Judge, if I might, I know
17 the Kansas City Power and Light Company and the KCP&L
18 Greater Missouri Operation Company's cases are two
19 operate numbers. Are you planning to issue a joint
20 order or separate orders or --

21 JUDGE WOODRUFF: The order's being
22 issued --

23 MR. WILLIAMS: -- consolidate this in any
24 way?

25 JUDGE WOODRUFF: Yeah, this procedural

1 schedule is set -- or this hearing -- this conference
2 was noticed up for both simultaneously. The issue --
3 the order will issue in both cases. All right.

4 Anything else?

5 MR. DORITY: Not on behalf of the
6 companies. Thank you, Judge.

7 JUDGE WOODRUFF: Thank you.

8 With that, then, we are adjourned.

9 MR. ZAKOURA: Thank you.

10 MR. DORITY: Thank you.

11 MR. WILLIAMS: Thank you.

12 (The hearing concluded.)

1 CERTIFICATE

2 I, Nancy L. Silva, RPR, a Certified Court
3 Reporter, CCR No. 890, the officer before whom the
4 foregoing hearing was taken, do hereby certify that
5 the witness whose testimony appears in the foregoing
6 hearing was duly sworn; that the testimony of said
7 witness was taken by me to the best of my ability and
8 thereafter reduced to typewriting under my direction;
9 that I am neither counsel for, related to, nor
10 employed by any of the parties to the action in which
11 this hearing was taken, and further, that I am not a
12 relative or employee of any attorney or counsel
13 employed by the parties thereto, nor financially or
14 otherwise interested in the outcome of the action.

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17 Nancy L. Silva, RPR, CCR
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