

1                   BEFORE THE PUBLIC SERVICE COMMISSION

2                               STATE OF MISSOURI

3                               \_\_\_\_\_  
4                   TRANSCRIPT OF PROCEEDINGS

5                               Prehearing Conference

6                               August 23, 2011

7                               Jefferson City, Missouri

8                               Volume 1

9                               \_\_\_\_\_  
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11       In the Matter of

12       KCP&L Greater Missouri                )

13       Operation Company's Solar            )

14       Photovoltaic Rebate Program    ) File No. ET-2012-0022

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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## A P P E A R A N C E S

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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  
3 Dan Greene's judgment that was entered on  
4 June 29, 2011, in the Cole County Circuit Court.

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

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16 Association have, in fact, withdrawn from that  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

1 Missouri this morning, and that is to simply  
2 direct the parties to file a procedural schedule  
3 three weeks from today, and I think again we  
4 would all contemplate that in that intervening  
5 time frame, hopefully Judge Greene will issue an  
6 order that will totally resolve that matter.

7 JUDGE WOODRUFF: Any other parties  
8 want to be heard on that?

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

1 companies will take some action within the next  
2 few weeks, Staff doesn't oppose a procedural  
3 schedule being filed by the 13th of September or  
4 withdrawal of the tariff sheets depending on  
5 what happens in the intervening time frame.

6 JUDGE WOODRUFF: Brightergy or public  
7 counsel wish to be heard?

8 On behalf of Brightergy, Judge, we  
9 would support the position of the Staff.

10 JUDGE WOODRUFF: All right.

11 Mr. Mills?

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

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

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

1 JUDGE WOODRUFF: The order's being  
2 issued --

3 MR. WILLIAMS: -- consolidate this in  
4 any way?

5 JUDGE WOODRUFF: Yeah, this  
6 procedural schedule is set -- or this hearing --  
7 this conference was noticed up for both  
8 simultaneously. The issue -- the order will  
9 issue in both cases. All right.

10 Anything else?

11 MR. DORITY: Not on behalf of the  
12 companies. Thank you, Judge.

13 JUDGE WOODRUFF: Thank you.

14 With that, then, we are adjourned.

15 MR. ZAKOURA: Thank you.

16 MR. DORITY: Thank you.

17 MR. WILLIAMS: Thank you.

18 (The hearing concluded.)  
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## 1 CERTIFICATE

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

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19 Nancy L. Silva, RPR, CCR  
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