

EXHIBIT 2

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

July 31, 2001

CASE NO: EM-2001-464

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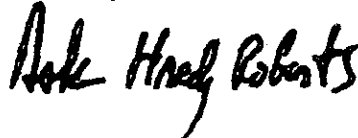
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Enclosed find certified copy of a ORDER in the above-numbered case(s).

Sincerely,



**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office in
Jefferson City on the 31st day
of July, 2001.

In the Matter of the Application of Kansas City Power &)
Light Company for an Order Authorizing its Plan to) Case No. EM-2001-464
Reorganize Itself into a Holding Company Structure.)

**ORDER APPROVING STIPULATION AND AGREEMENT
AND CLOSING CASE**

The Missouri Public Service Commission is authorized to approve the corporate restructuring of public utilities where there is no detriment to the public interest. Kansas City Power & Light Company (KCPL) seeks permission to restructure itself and no party has objected. This order grants KCPL's application.

Procedural History:

On February 26, 2001, KCPL filed its application for approval of its plan to reorganize itself as a holding company. KCPL, which is an electric corporation and a regulated public utility, owns certain subsidiaries which are not regulated entities. KCPL proposes to reorganize so that a holding company will own KCPL and also each of its present subsidiaries.

On February 28, 2001, the Commission issued its Order Directing Notice, setting March 20 as the deadline for any interested person to file an application for leave to intervene. The Missouri Joint Municipal Electric Utility Commission and the City of Kansas City, Missouri, filed their applications to intervene on March 20. UtiliCorp United,

Inc., filed its application on March 21. The City of Independence, Missouri, filed its application on March 23. Jackson County, Missouri, filed its application on March 26. The Empire District Electric Company filed its application on March 28. KCPL filed its response on March 29, and the Missouri Energy Group filed its application on March 30.

KCPL, in its response filed on March 29, expressed no objection to the applications filed by the Missouri Joint Municipal Electric Utility Commission, Independence, Kansas City, Jackson County, Empire, and UtiliCorp. KCPL never responded to Missouri Energy Group's application. All of the applications to intervene met the requirements of Commission Rule 4 CSR 240-2.075 and were granted on April 23. Also on that date, the Commission set a prehearing conference for May 1 and directed the parties to submit a proposed procedural schedule by May 8.

The prehearing conference was held as scheduled. At the prehearing conference, the parties advised the presiding officer that they had that day filed a Stipulation and Agreement resolving all of the issues in the case. The Stipulation and Agreement was, however, not unanimous. It was executed only by KCPL, Staff and the Office of the Public Counsel. The parties requested that the requirement that a proposed procedural schedule be filed by May 8 be suspended pending resolution of the Stipulation and Agreement. The Staff of the Commission also promised to file suggestions in support of the Stipulation and Agreement. Also on May 1, the Commission issued its order directing Staff to file either suggestions in support of the Stipulation and Agreement or a proposed procedural schedule by May 11.

On May 7, intervenors the City of Kansas City and Jackson County advised the Commission that they neither supported nor opposed the Stipulation and Agreement and

did not request a hearing. Also on May 7, Intervenor UtiliCorp advised the Commission that it neither supported nor opposed the Stipulation and Agreement and waived its right to a hearing. UtiliCorp stated that this waiver was conditioned upon certain considerations, including: that the Stipulation and Agreement is a compromise settlement between the signatories thereof; that it does not bind any non-signatory; that UtiliCorp does not concur nor acquiesce in the Stipulation and Agreement; that no general regulatory policy or precedent is thereby established by the Commission for application to any other regulated entity; and that UtiliCorp reserves the right to take a different or adverse position in any other case. Intervenor Empire District filed an identical waiver on May 7. The remaining parties filed nothing.

On May 11, Staff filed its response to the Commission's Order Directing Filing of May 1. This response took the form of suggestions in support of the Stipulation and Agreement.

On June 21, 2001, the Commission discussed this case at its regularly-scheduled Agenda meeting and determined to convene an on-the-record presentation to permit clarification of certain concerns. The Commission issued its Order and Notice on June 25, set the on-the-record presentation for July 5, and advised the parties that

[a]mong the topics that will be addressed are (1) the purpose and effect of the conditional waivers of the right to a hearing filed by two intervenors, and (2) whether it is in the public interest to permit Kansas City Power & Light Company (KCPL) to meet a portion of its future generation requirements via a purchase power agreement with Great Plains Power (GPP), an unregulated, competitive affiliate.¹

¹ GPP is presently a subsidiary and not an affiliate, but will become a affiliate if the restructuring proposed by KCPL is approved.

The Commission convened the on-the-record presentation as scheduled on July 5, 2001. All of the parties appeared except for the Missouri Joint Municipal Electric Utility Commission, which was excused. The Commissioners directed extensive questioning to KCPL.

On July 6, 2001, Great Plains Power, Inc. (GPP), entered its appearance in this case. On July 9, 2001, KCPL filed its First Amended Stipulation and Agreement. The First Amended Stipulation and Agreement differs from the original Stipulation and Agreement in only two respects: it adds GPP as a signatory and Section 9, relating to Combustion Turbines, has been largely rewritten. Like the original Stipulation and Agreement, the First Amended Stipulation and Agreement is not unanimous. It was executed only by KCPL, GPE, GPP, Staff, and the Office of the Public Counsel.

Also on July 9, Staff filed its Suggestions in Support of the First Amended Stipulation and Agreement. On July 10, 2001, KCPL filed its Motion for Expedited Treatment of the Approval of the First Amended Stipulation and Agreement. Therein, counsel for KCPL advises the Commission that he has been authorized by all parties except UtiliCorp and Empire District Electric Company to state on their behalf "that they will not request any hearings in this matter." KCPL prays that the Commission will act on its application no later than July 12, 2001, so that the proposed transaction may close on August 8, 2001, and public trading in the stocks of GPE may commence on August 9, 2001. Finally, on July 10, Intervenors Empire District Electric Company and UtiliCorp United, Inc., filed their pleadings stating that they have no objection to either the Motion for Expedited Treatment of the Approval of the First Amended Stipulation and Agreement or

the First Amended Stipulation and Agreement. Both intervenors advised the Commission that they did not seek a hearing in this matter.²

On July 12, 2001, the Commission again considered this matter at its regularly scheduled Agenda session. The Commission again determined to set an on-the-record presentation, which it did by Order and Notice issued on July 17. KCPL also moved for a second on-the-record presentation on July 13.

The second on-the-record presentation took place as scheduled on July 27, 2001.

Findings of Fact:

KCPL is a vertically integrated public utility which generates, transmits and sells electrical energy at retail in the state of Missouri to some 230,000 residential customers and some 30,100 commercial customers. KCPL is regulated by this Commission, as well as by agencies of the state of Kansas and of the United States.

KCPL seeks approval from the Commission to restructure itself as a holding company with a single tier of operating companies. At the conclusion of the proposed reorganization, KCPL will be one of those operating companies. KCPL will still be a vertically integrated public utility. The reorganization will have no effect on the tax revenues of any Missouri political subdivision.

KCPL owns two subsidiaries, KLT, Inc. (KLT), and GPP. KLT invests in competitive, high-growth businesses, including telecommunications, gas production and

²At the hearing on July 5, counsel for Intervenor Empire and UtiliCorp repeatedly assured the Commission on behalf of his clients that they had no objection to the Stipulation and Agreement.

development and energy services. GPP is a competitive, wholesale generator. KLT and GPP are not regulated by this Commission. GPP is, however, subject to regulation by the Federal Energy Regulatory Commission (FERC).

Specifically, KCPL proposes to form a new subsidiary, Great Plains Energy (GPE), which will in turn form a subsidiary, NewCo. KCPL will then merge into NewCo, with KCPL surviving. Each share of KCPL's preferred and common stock will convert into a share of GPE's preferred or common stock. KCPL will then pass ownership of its two other subsidiaries to GPE by dividend. The result will be a publicly traded holding company, GPE, with three wholly owned subsidiaries: KCPL, KTL and GPP. KCPL will not transfer any of its generating assets in the course of the proposed reorganization and its services to its Missouri customers will be unaffected. In addition to approval by this Commission, KCPL seeks approval from the Kansas Corporations Commission, FERC, the Nuclear Regulatory Commission (NRC), and the Federal Communications Commission (FCC). Additionally, KCPL will file a registration with the Securities and Exchange Commission (SEC).

Upon completion of the proposed restructuring and registration with the SEC, GPE will become subject to the Public Utility Holding Company Act (PUHCA). The First Amended Stipulation and Agreement contains contractual provisions that reflect many of the protections contained in PUHCA. Thus, should PUHCA be repealed, these protections will still be imposed on GPE, GPP and KCPL by the First Amended Stipulation and Agreement. PUHCA favors the use of service companies by affiliated corporations and KCPL anticipates that a service company subsidiary will eventually be formed by GPE. The

allocation of costs between KCPL and its affiliates will be governed by a Cost Allocation Manual (CAM).

Both of the Stipulations and Agreements filed in this case contain the same conditions imposed in Cases Nos. EM-97-515 and EM-96-149, which involved Missouri utilities which became subsidiaries of registered holding companies. These conditions are intended to protect the Missouri customers of such utilities. The conditions relate to such matters as access to books and records, affiliate transactions, and the creation of a service company. The Stipulations and Agreements also contain provisions relating to surveillance reports, the CAM, transaction costs, and combustion turbines, among others.

In January of 2001, KCPL entered into a binding memorandum of understanding with General Electric Company under which KCPL may lease or purchase up to five combustion turbine generation units. Each of these units has a generating capacity of 77 MW. These turbines will not be completed until 2003. If the proposed reorganization is approved, KCPL anticipates seeking Commission approval to transfer its rights under the memorandum of understanding to GPP. KCPL anticipates that it will need an additional 231 MW of generation capacity in the next three years, that is, the generating capacity of three of the five combustion turbines. KCPL currently purchases less than five percent of its energy needs on the open market.

If the proposed reorganization is approved, KCPL may enter into a cost-based purchase supply agreement with GPP to acquire this additional capacity. Such a cost-based purchase supply agreement would provide power at a cost to ratepayers identical to costs under traditional cost-of-service based rates. The cost of power generated by a combustion turbine owned by GPP would be essentially identical to the cost

of power generated by a combustion turbine owned directly by KCPL. KCPL, GPE and GPP further stipulated, at the on-the-record presentation on July 5, 2001, that they will not form a marketing subsidiary. KCPL also stated that its principal purpose in seeking to reorganize is to position itself for an anticipated deregulated environment in the future.

At the second on-the-record presentation, GPP stated that it is also exploring the possibility of building a 500 MW to 900 MW coal-fired, base-load generating plant near Weston Bend on the Missouri River. If built, this plant would generate power for sale on the open market. KCPL does not presently anticipate any need to use the output of this plant to meet the needs of its customers. This project is presently in a very early stage and the proposed plant may never be built at all.

Staff supports the First Amended Stipulation and Agreement and recommends that the Commission approve it. Staff states, in particular, that it contains additional and more specific protections relating to financial matters than the Stipulations and Agreements approved in Cases Nos. EM-97-515 and EM-96-149. Staff states its position that the proposed restructuring is not detrimental to the public interest. The Office of the Public Counsel is a signatory of the Stipulation and Agreement and also supports it. At both hearings, the Office of the Public Counsel stated that the Stipulation and Agreement contains adequate safeguards for ratepayers.

Conclusions of Law:

Based on the facts found herein, the Commission makes the following conclusions of law.

Jurisdiction

KCPL is an "electrical corporation" and a "public utility" within the intendments of Section 386.020, (15) and (42), RSMo 2000, and is thus subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 2000.

No party has requested a hearing in this case. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence.³ Since no one has requested a hearing, the Commission may determine this case based on the pleadings.

The Non-unanimous Stipulation and Agreement

Pursuant to Commission rule, a non-unanimous stipulation and agreement may be deemed unanimous if no party requests a hearing within seven days of its filing.⁴ A failure to timely request a hearing constitutes full waiver of the right to a hearing.⁵ With respect to the First Amended Stipulation and Agreement at issue here, all of the parties have either signed it or affirmatively acted to notify the Commission that they would not request a hearing. Therefore, the Commission will deem the First Amended Stipulation and Agreement filed in this matter to be unanimous.

Mergers, Transfers and Stock Ownership

KCPL seeks authority to reorganize as described above under Section 393.190, RSMo 2000. That statute provides that a Missouri electric corporation may not transfer or

³ State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

⁴ Commission Rule 4 CSR 240-2.115, 1 and 3.

⁵ Commission Rule 4 CSR 240-2.115.3.

encumber any part of its system without Commission approval.⁶ Likewise, it may not merge with another corporation without permission from the Commission.⁷ A regulated utility cannot lawfully acquire another regulated utility without Commission approval.⁸ Commission approval is also necessary for any corporation other than a utility to own more than ten percent of the total capital stock of a public utility.⁹

The Missouri Supreme Court, in *State ex rel. City of St. Louis v. Public Service Commission*, stated that, in considering such cases, the Commission must be mindful that the right to transfer or encumber property is an important incident of the ownership thereof and that a property owner should be allowed to do such things unless it would be detrimental to the public.¹⁰ The same standard is applied to proposed mergers and reorganizations. The Missouri Court of Appeals has stated that “[t]he obvious purpose of [Section 393.190] is to ensure the continuation of adequate service to the public served by the utility.”¹¹ This is the standard by which public detriment is to be measured in such cases. The Commission notes that it is unwilling to deny private, investor-owned companies an important incident of the ownership of property unless there is compelling evidence on the record showing that a public detriment is likely to occur.¹²

⁶ Section 393.190.1, RSMo 2000.

⁷ *Id.*

⁸ Section 393.190.2, RSMo 2000.

⁹ *Id.*

¹⁰ *State ex rel. City of St. Louis v. Public Service Commission*, 335 Mo. 448, 459, 73 S.W.2d 393, 400 (Mo. banc 1934).

¹¹ *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App., E.D. 1980).

¹² *In the Matter of the Joint Application of Missouri Gas Company et al.*, 3 Mo.P.S.C.3d 216, 221 (1994).

The Commission reads *State ex rel. City of St. Louis v. Public Service Commission* to require a direct and present public detriment.¹³ For example, where the sale of all or part of a utility's system was at issue, the Commission considered such factors as the applicant's experience in the utility industry; the applicant's history of service difficulties; the applicant's general financial health and ability to absorb the proposed transaction; and the applicant's ability to operate the asset safely and efficiently.¹⁴ In the present case, there is no evidence of a direct and present public detriment in the record and the parties believe that none is posed by the proposed reorganization. If the reorganization is approved, KCPL will still be a vertically-integrated public utility subject to regulation by this Commission; it will still serve the same customers with the same system pursuant to its existing tariffs.

Based on its consideration of the record before it, the Commission concludes that the proposed reorganization is not detrimental to the public interest and should be approved. Specifically, this includes approval for KCPL to merge with NewCo, approval for GPE to own more than ten percent of KCPL, and approval, to the extent that approval is needed, for KCPL to transfer ownership of KTL and GPP to GPE.

Issuance of Stocks and Bonds

KCPL also seeks authority under Section 393.200, RSMo 2000. That section provides that a public utility may not issue stocks, bonds, or other evidence of indebtedness without prior Commission approval.¹⁵ Commission approval is conditioned on a finding that

¹³ *Supra*, 335 Mo. at 459, 73 S.W.2d at 400.

¹⁴ See *In the Matter of the Joint Application of Missouri Gas Energy et al.*, Case No. GM-94-252 (Report and Order, issued October 12, 1994) 3 Mo.P.S.C.3d 216, 220.

¹⁵ Section 393.200.1, RSMo 2000.

the money thereby acquired is reasonably required for the purposes set out in the Commission's order.¹⁶ Permissible purposes include property acquisition, construction and maintenance, improvements, and the retirement of obligations.¹⁷

Based on its consideration of the record before it, the Commission concludes that the stock transactions proposed by KCPL are reasonably necessary for the purpose of the proposed reorganization and should be approved.

Dividends

KCPL also seeks authority under Section 392.210, RSMo 2000. That statute provides in pertinent part that an electrical corporation may not declare a dividend without Commission authority.¹⁸ Based on the record before it, the Commission determines that KCPL's proposal to transfer KTL and GPP to GPE via a dividend is reasonable and that the same will not have a detrimental effect on the public. Therefore, the Commission should approve the proposed dividend.

Reorganization

KCPL also seeks authority under Section 393.250, RSMo 2000. That statute provides that the reorganization of an electrical corporation is subject to Commission "supervision and control" and may not be had without authorization from the Commission.¹⁹

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 393.210, RSMo 2000.

¹⁹ Section 393.250.1, RSMo 2000.

It also empowers the Commission to set the capitalization amount of the reorganized entity.²⁰

Based on its consideration of the record before it, the Commission concludes that the proposed reorganization is reasonable and is not a detriment to the public interest. Therefore, it should be approved.

IT IS THEREFORE ORDERED:

1. That the Motion for Expedited Treatment of the Approval of the First Amended Stipulation and Agreement, filed by Kansas City Power & Light Company on July 10, 2001, is granted.

2. That the application filed by Kansas City Power & Light Company on February 26, 2001, is approved.

3. That the First Amended Stipulation and Agreement, filed on July 9, 2001, is deemed to be unanimous. Further, the Commission finds the First Amended Stipulation and Agreement to be reasonable and approves the same. Kansas City Power & Light Company, Great Plains Energy, Inc., and Great Plains Power, Inc., are directed to comply with its provisions.

4. That Kansas City Power & Light Company is authorized to reorganize as described in its application referred to in Ordered Paragraph 2, above, subject to the conditions contained in the First Amended Stipulation and Agreement referred to in Ordered Paragraph 3, above. Kansas City Power & Light Company is authorized to take all necessary and lawful actions to effect and consummate the reorganization herein approved.

²⁰ Section 393.250, 2 and 3, RSMo 2000.

5. That nothing in this order shall be considered a finding by the Commission of the value for ratemaking purposes of the properties, transactions and expenditures herein involved. The Commission reserves the right to consider any ratemaking treatment to be afforded the properties, transactions and expenditures herein involved in a later proceeding.

6. That this order shall be effective on August 10, 2001.

7. That this case may be closed on August 11, 2001.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Simmons, Ch., Murray, and Lumpe,
CC., concur.

Gaw, C., dissents, with dissenting
opinion to follow.

Thompson, Deputy Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

**I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 31st day of July 2001.**



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge