

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 9th day of
February, 2011.

In the Matter of the Application of Kansas City)
Power & Light Company for Approval to Make)
Certain Changes in its Charges for Electric)
Service to Continue the Implementation of Its)
Regulatory Plan)

File No. ER-2010-0355

ORDER DENYING MOTION TO COMPEL

Issue Date: February 9, 2011

Effective Date: February 9, 2011

On January 11, 2011, Midwest Energy Users' Association (MEUA) filed a motion to compel the answers to a portion of a data request it proposed to Kansas City Power & Light Company (KCPL) on August 19, 2010. KCPL objected on August 27, 2010, to that data request. The data request in question asked:

Please provide detailed cell phone usage (both corporate and personal cell phones) for William Downey, Chris Giles, Curtis Blanc and Michael Chesser for the past six months. Please include date/time of call and called/calling number information.¹

MEUA recognizes that the delay from KCPL's objection on August 27, 2010, to the filing of its motion to January 11, 2011, is problematic. Thus, in its motion, MEUA pre-emptively argues that the late filing of its motion to compel should be excused because of the burden caused by the number of rate cases currently pending at the

¹ *Motion to Compel*, filed January 11, 2011, p. 1.

Commission and the fact that MEUA does not believe it needs the information quickly.

MEUA goes on to state in its motion:

resolution of this Motion is not needed before the start of the hearing. In fact, the information deduced from this data request does not impact any particular issue. Rather, this information may impact the deliberations of the case which are still not expected to occur for more than a month.²

As anticipated by MEUA, KCPL objected to the motion because it was not timely.³ KCPL argued that such a late request made only days before the hearing began created an undue hardship upon KCPL and was meant only to disrupt the Commission's hearing procedures. In addition, KCPL points to the Commission's July 7, 2010 Order Regarding Construction and Prudence Audits which ordered that: "Any discovery disputes shall be taken up immediately at . . . [the status] hearings. Any discovery dispute not timely raised at the status hearings shall be deemed waived."⁴

Because this discovery dispute was not taken up immediately at one of the status hearings as ordered by the Commission, MEUA's dispute is not timely and the Commission denies the motion to compel.

THE COMMISSION ORDERS THAT:

1. The Motion to Compel filed by the Midwest Energy Users' Association on January 11, 2011, is denied.

² *Motion to Compel*, filed January 11, 2011, at p. 4. (Emphasis added.)

³ KCPL made other objections such as relevance, but the Commission need not make a decision regarding those objections.

⁴ *Order Regarding Construction and Prudence Audits*, ordered paragraph 5.

2. This order shall become effective upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge