

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

In the Matter of the Application of Kansas City)
Power & Light Company for Approval to Make)
Certain Changes in its Charges for Electric) **File No. ER-2010-0355**
Service to Continue the Implementation of Its)
Regulatory Plan)

In the Matter of the Application of KCP&L)
Greater Missouri Operations Company for) **File No. ER-2010-0356**
Approval to Make Certain Changes in its Charges)
for Electric Service)

**STAFF RESPONSE IN OPPOSITION TO MOTION OF KCPL AND GMO FOR PROTECTIVE ORDER
TO QUASH DEPOSITION SUBPOENA DUCES TECUM**

Comes now the Staff of the Missouri Public Service Commission (Staff) through the Staff Counsel's Office in opposition to the Motion For Protective Order Of Kansas City Power & Light Company (KCPL) And KCP&L Greater Missouri Operations Company (GMO) To Quash Deposition Subpoena Duces Tecum served by Staff upon KCPL/GMO on January 13, 2011. In response the Staff states, as follows:

1. Although the Staff has been aware of the existence of Mr. David McDonald as, the most recent Procurement Director on the Iatan Construction Project, a position supposedly phased-out and previously held by Mr. Steven Jones, whose present services are being billed KCPL by Schiff Hardin, LLC, the Staff's interest in Mr. McDonald did not rise to the level of deposing him and possibly calling him as a witness until the week of January 3, 2011 when the Staff first advised KCPL of that interest. The week before, the week of December 27, 2010, the Staff advised KCPL that it desired to depose Mr. Terry Bassham and Ms. Denise Schumaker in addition to certain KCPL/GMO witnesses and requested that KCPL check their available dates and times. An accumulation of information, including rebuttal testimony, and other recent information caused the Staff to seek the deposition. The Staff's interest in deposing Mr.

McDonald was further increased by a recent deposition of a KCPL witness regarding the circumstances of KCPL paying for the services of two Iatan Project Construction Procurement Directors, one at KCPL and one under contract to Schiff Hardin each being charged at different rates.

2. It has been traditional practice at for the Staff and other parties for discovery to continue through a rate case. In part that has been the case because of the practice of updating the cases to last known and measurable data for a proper match of rate base, revenues, and expenses, an effort to present to the Commission the most complete information possible, and an attempt to dissuade any party from benefitting from the delay in providing information that an operation of law date might otherwise offer. Undersigned counsel does recall that some utilities in the context of particular rate cases have petitioned the Commission to bring an end to discovery once the hearings have commenced, but the Commission has not agreed to so.

3. The Staff originally proposed deposing Mr. McDonald in Jefferson City because the Staff thought that with the rate case hearings in progress, it actually would be more convenient for KCPL and Mr. McDonald for the deposition to be in Jefferson City. Had the Staff known that KCPL and Mr. McDonald would be less inconvenienced for the deposition to be in Kansas City, the Staff would have suggested Kansas City or a telephone deposition which is how all the depositions occurred the week of January 10, 2011. The Staff is amenable to a telephone deposition of Mr. McDonald on January 24, 2011, with Mr. McDonald, KCPL/GMO counsel, and the court reporter being in Kansas City and Staff counsel being in Jefferson City. Also, if 8:00 a.m. is inconvenient for the deposition, the Staff is amenable to some time later in the day. The Staff anticipates that the deposition should require no more than three (3) hours. The witness scheduled to be heard by the Commission on Monday, January 24, 2011 starting at

8:30 a.m., by agreement of the parties, is Mr. Walter Drabinski and it is anticipated that Mr. Drabinski may be on the stand for awhile. The Staff is flexible with how KCPL/GMO might accommodate it regarding a deposition of Mr. McDonald on Monday, January 24, 2011.

4. At paragraph 3 of its Motion For Protective Order KCPL/GMO state that they do not understand the Staff's request in paragraph 3 of Attachment A for an Iatan Construction Project book charge policies and procedures since June of 2005 "as there are no 'book charge' policies or procedures to the best of its knowledge." The Staff considers that KCPL/GMO have responded to its request by its response.

5. Regarding paragraph 4 of Attachment A, KCPL/GMO did note at paragraph 5 of its Motion For Protective Order KCPL/GMO that, among other things, counsel for Staff offered to limit paragraph 4 to any documents (e-mails, memorandum, or other correspondence, documentation, or other communications) sent from Mr. McDonald to supervisors or project managers regarding procurement or contract administration matters for the Iatan Construction Project. KCPL/GMO related that it objected to producing "in the middle of a hearing over a year's worth of e-mails, memoranda, correspondence and other documents, spanning the time from when Mr. McDonald was hired in September 2009 to the present." The Staff certainly believes that the opportunity to depose Mr. McDonald without documents is better than no opportunity to depose Mr. McDonald, but that a deposition of Mr. McDonald would be greatly assisted in its process by access to documents.

6. The Staff does not seek to depose Mr. McDonald and obtain the indicated discovery to vex Mr. McDonald, KCPL/GMO, or the Commission. The Staff does not seek to heedlessly or needlessly prolong these proceedings. The Staff understands the significance of

the decisions before the Commission and is attempting to balance the convenience and needs of KCPL/GMO with the need to provide competent and substantial evidence to the Commission.

Wherefore the Staff files its response in opposition to the Motion For Protective Order Of Kansas City Power & Light Company (KCPL) And KCP&L Greater Missouri Operations Company (GMO) To Quash Deposition Subpoena Duces Tecum served by Staff upon KCPL/GMO on January 13, 2011.

Respectfully submitted,

/s/ Steven Dottheim

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 21th day of January, 2011.

/s/ Steven Dottheim