

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

In the Matter of the Application of Kansas City	)	<b><u>Case No. EU-2010-0194</u></b>
Power & Light Company and KCP&L Greater	)	Tariff Nos. JE-2010-0430
Missouri Operations Company for An Accounting	)	and JE-2010-0431
Authority Order.	)	

**STAFF RECOMMENDATION**

Comes now the Staff of the Missouri Public Service Commission (Staff) and, in response to the Commission's January 6, 2010, order in which it directed Staff to file by January 8, 2010, its recommendation as to whether the Commission should act expeditiously on the tariff sheets filed by Kansas City Power & Light Company (KCPL) and KCP&L Greater Missouri Operations Company (GMO) designed to implement the statutory § 393.1030.3<sup>1</sup> requirement of electrical corporations to offer rebates to their customers for new or expanded solar electric systems that become operational after 2009 and on their request for accounting authority for incremental costs associated with compliance with the Renewable Energy Standard, states:

1. KCPL and GMO filed both their tariff sheets and application for accounting authority on December 29, 2009. The tariff sheets bear effective dates of January 28, 2010.

2. Section 393.1030.3 is a part of the Renewable Energy Standard, a voter initiative on the November 4, 2008, ballot as Proposition "C" that passed. It is codified in Missouri statutes at §§ 393.1020 -.1030. Section 393.1030.3, in full, provides:

3. Each electric utility shall make available to its retail customers a standard rebate offer of at least two dollars per installed watt for new or expanded solar electric systems sited on customers' premises, up to a maximum of twenty-five kilowatts per system, that become operational after 2009.

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<sup>1</sup> All statutory references are to RSMo. Supp. 2009, unless otherwise noted.

This rebate offer requirement is commonly referred to as a “solar rebate,” and will be so referenced in this pleading.

3. In addition to the solar rebate requirement, through the Renewable Energy Standard the people of Missouri also have mandated as follows:

1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:

- (1) No less than two percent for calendar years 2011 through 2013;
- (2) No less than five percent for calendar years 2014 through 2017;
- (3) No less than ten percent for calendar years 2018 through 2020; and
- (4) No less than fifteen percent in each calendar year beginning in 2021.

At least two percent of each portfolio requirement shall be derived from solar energy. The portfolio requirements shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. A utility may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.

4. The Commission initiated a Renewable Energy Standard rulemaking by filing its *Notice of Finding of Necessity* in Case No. EX-2010-0169 on December 2, 2009, and in its January 6, 2010, Agenda voted to send to the Missouri Secretary of State for publication in the Missouri Register a notice of proposed rulemaking of a Renewable Energy Standard rule. Therefore, at this time there is no Commission rule prescribing a portfolio requirement for electric utilities, such as KCPL and GMO, to generate or purchase electricity generated from renewable energy resources. The proposed rule in Case No. EX-2010-0169 is the culmination of workshops, in which KCPL and GMO participated and were kept informed, that are reported in

Case No. EW-2009-0324. Further, Union Electric Company d/b/a AmerenUE filed similar solar rebate tariff sheets on December 4, 2009, which the Commission allowed to become effective on January 3, 2010. The tariff tracking number for that filing is JE-2010-0375. Before KCPL and GMO filed their solar rebate tariff sheets Staff informed them of AmerenUE's solar rebate tariff sheets. Staff has reason to believe the provisions of the KCPL and GMO solar rebate tariff sheets are nearly identical to both those of AmerenUE's solar rebate tariff sheets and the Commission's proposed rule.

5. Neither KCPL nor GMO sought expedited treatment of their application for accounting authority or for when their solar rebate tariff sheets would take effect.

6. In light of (a) neither KCPL nor GMO seeking expedited treatment, (b) the need for expediency in processing the tariff sheets or request for accounting authority, if any, is due to when KCPL and GMO filed the application and tariff sheets, and (c) the Staff's intention to make its recommendation respecting the tariff sheets and application for accounting authority in a timely fashion, the Staff recommends the Commission not impose an expedited procedure in this case.

7. In conversations with Staff today, January 8, 2010, KCPL and GMO have represented that the tariff sheets and the request for accounting authority may be treated separately and independently for purposes of the Commission processing them, *i.e.*, Commission Orders rejecting or granting them may be issued at different times. Additionally, in their response to the Commission's Order they filed January 8, 2010 KCPL and GMO state, "From the perspective of the Applicants, the proposed Solar Rebate Program tariffs may be processed independently from their Application For Accounting Authority Order." (Underlining in original.)

8. Staff plans to process the tariff sheets in a timely fashion and, at this time, does not anticipate filing its recommendations on the tariff sheets later than it would have if they still were to go into effect on the requested effective date of January 28, 2010.

9. As to the request for accounting authority for incremental costs associated with compliance with the Renewable Energy Standard, Staff observes that III. 3.d(i) on page 41 of the Stipulation and Agreement the Commission approved in Case No. EO-2005-0329 (the “KCPL Regulatory Plan”) provides, “Rate schedules with an effective date of September 1, 2010, will be filed with the Commission on October 1, 2009, or eight (8) months prior to the commercial in service operation date of Iatan 2.” KCPL has publicly stated it anticipates Iatan 2 will begin commercial in service operation late in the summer of 2010. Therefore, KCPL is obligated to initiate a general electric rate case in Missouri within weeks and, undoubtedly, because of cost allocations, etc., GMO will file a general electric rate case contemporaneously. As a result, the costs KCPL and GMO would have addressed in the accounting authority they request from the Commission would be costs incurred within the test year as updated and trued-up in those impending rate cases and the Commission could decide in those cases whether to grant KCPL and GMO the accounting authority they seek here for costs incurred after the updated and trued-up test year.

10. In conversations with Staff today, January 8, 2010, KCPL and GMO have stated that, at least in part, they filed their requests for accounting authority because they want to have both companies to have the same authority and because KCPL is concerned it may be barred from using a different means of accomplishing its goal of recovering these costs since the KCPL Regulatory Plan includes the following provision:

### c. Single-Issue Rate Mechanisms

*KCPL agrees that, prior to June 1, 2015, it will not seek to utilize any mechanism authorized in current legislation known as “SB 179” or other change in state law that would allow riders or surcharges or changes in rates outside of a general rate case based upon a consideration of less than all relevant factors.* (Emphasis added.) In exchange for this commitment, the Signatory Parties agree that if KCPL proposes an Interim Energy Charge (“IEC”) in a general rate case filed before June 1, 2015 in accordance with the following parameters, they will not assert that such proposal constitutes retroactive ratemaking or fails to consider all relevant factors:

- (i) The rates and terms for such an IEC shall be established in a rate case along with a determination of the amount of fuel and purchased power costs to be included in the calculation of base rates.
- (ii) The rate or terms for such an IEC shall not be subject to change outside of a general rate case where all relevant factors are considered.
- (iii) The IEC rate “ceiling” may be based on both historical data and forecast data for fuel and purchased power costs, forecasted retail sales, mix of generating units, purchased power, and other factors including plant availability, anticipated outages, both planned and unplanned, and other factors affecting the costs of providing energy to retail customers.
- (iv) The duration of any such IEC shall be established for a specified period of time, not to exceed two years.
- (v) A refund mechanism shall be established which will allow any overcollections of fuel and purchased power amounts to be returned to ratepayers with interest following a review and true-up of variable fuel and purchased power costs at the conclusion of each IEC. Any uncontested amount of over-collection shall be refunded to ratepayers no later than 60 days following the filing of the IEC true-up recommendation of the Staff.
- (vi) During any IEC period, KCPL shall provide to the Staff, Public Counsel and other interested Signatory Parties monthly reports that include any requested energy and fuel and purchase power cost data.

11. While Staff has not yet determined its position on the applicability of the foregoing provision with regard to KCPL’s request here for an Accounting Authority Order, if KCPL cannot recover incremental costs associated with compliance with the Renewable Energy Standard as contemplated by the mechanism in the proposed rule the Commission is sending to

the Missouri Secretary of State (Case No. EX-2010-0169 discussed above) because of the foregoing provision in the KCPL Regulatory Plan, then why should the Commission allow it to eviscerate that provision in the KCPL Regulatory Plan by means of an Accounting Authority Order?

12. Because the KCPL Regulatory Plan is implicated in this case, Staff is serving the signatories to that plan with a copy of this pleading.

**Wherefore**, the Staff recommends the Commission not establish an expedited procedure for this case.

Respectfully submitted,

**/s/ Nathan Williams**

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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 8<sup>th</sup> day of January 2010.

**/s/ Nathan Williams**