

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

In the Matter of the Application of Kansas)
City Power & Light Company for the)
Issuance of an Accounting Authority)
Order Relating to its Electrical Operations)
and for a Contingent Waiver of the Notice)
Requirements of 4 CSR 240-4.020(2).)

File No. EU-2012-0130

MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION TO CONSOLIDATE

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its *Motion to Dismiss, or in the Alternative, Motion to Consolidate*, states as follows:

Background

1. On December 19, 2011, Kansas City Power & Light (“KCPL” or “Company”) filed its *Application for Accounting Authority Order* requesting deferral of the added costs it incurred and the reduction of off-system sales margins attributable to the Missouri River flooding and the constraints placed on KCPL’s electric generation due to the limited availability of coal to produce electricity.

2. Specifically, KCPL requests:

Therefore, KCP&L is requesting the Commission to authorize KCP&L to defer such amounts in two regulatory assets related to: (1) the incremental non-fuel costs of \$1,412,290 and the incremental retail load fuel and purchased power costs of ** _____ ** (to be set up upon approval of this AAO, with such amounts revised once final costs are determined); and (2) the lesser of the ** _____ ** impact of the flood on OSS margins (such amount revised once the final margin impact is determined) or the actual shortfall for the accumulation period (to be set up at the April 2012 end of the OSS margin tracker accumulation period).

3. Section 393.140(4), RSMo 2000, authorizes the Commission to prescribe a uniform method of keeping accounts for electric utilities subject to Commission jurisdiction. Pursuant to that authority, in Rule 4 CSR 240-20.030, the Commission directs that such electric utilities are to keep all accounts in conformity with the Uniform System of Accounts prescribed for Public Utilities and Licensees subject to the provisions of the Federal Power Act, as prescribed by the Federal Energy Regulatory Commission (the “USOA”).¹ The USOA requires that a company’s net income reflect all items of profit or loss occurring during the period, but recognizes that special accounting treatment granted by this Commission, such as an accounting authority order or “AAO,” may be appropriate when accounting for extraordinary items of profit or loss.²

4. Section 393.140(8), RSMo 2000, grants the Commission the power, after hearing, to prescribe by order—an AAO—the accounts in which particular outlays and receipts shall be entered, charged or credited.

5. KCPL is an “electrical corporation” and a “public utility” subject to the jurisdiction, supervision, and control of the Commission under Chapters 386 and 393, and is therefore required to abide by the provisions of the USOA.

Motion to Dismiss

6. The Commission should issue an order dismissing this case on the basis that the facts stated in KCPL’s *Application* (1) fail to establish the necessity of an AAO, especially where the test year in the Company’s recent rate case filing, ER-2012-0174, encompasses the period in which it incurred the costs and ungenerated revenues it is seeking here to defer; and (2) attempt, in part, to recover the “impact of the flood on

¹ Uniform System of Accounts prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, 18 C.F.R. § 101.

² *Id.*

OSS margins,” otherwise known as unearned off-system sales revenues, which is improper use of an AAO as one cannot defer revenues that never existed. Finally, in the alternative, the Commission should issue an order consolidating the above-captioned matter with KCPL’s currently pending rate case, ER-2012-0174, because KCPL is seeking to recover in that case the costs it seeks accounting authority here to defer.

Improper Use of AAO

7. The Commission should dismiss KCPL’s AAO *Application* on the grounds that the Company’s recently filed rate case is based on a test year and true-up period which encompass the period during which it incurred the costs and did not generate the revenues for which it seeks an AAO. There is no need to defer for later rate case treatment costs incurred in the test-year in a rate increase case pending before the Commission.

8. The test the Commission has used for determining whether or not to grant an AAO is whether the expense to be deferred is “extraordinary, unusual and unique and not recurring.”³

9. However, the simple fact that an expense is extraordinary and nonrecurring is not enough to justify the deferral of that expense. Implicit in the Commission’s previous orders regarding requests for AAOs is a requirement that there must be some reason why the expense to be deferred could not be immediately included for recovery in a rate case.⁴

³ *In the Matter of Missouri Public Service*, 1 MPSC 3d 200, 205 (1991).

⁴ Report and Order, *In the Matter of the Application of St. Joseph Light & Power Company for the Issuance of an Accounting Authority Order Relating to its Electrical Operations*, 9 MoPSC3d 481, 485 (Case No. EO-2000-0485 decided December 14, 2000)(internal citations omitted).

10. In *the Matter of the Application of St. Joseph Light & Power Company for the Issuance of an Accounting Authority Order Relating to its Electrical Operations* (the SJLP case), St. Joseph Light & Power's (SJLP) requested an AAO to recover costs relating to an unplanned shutdown to a turbine and boiler caused by a turbine failure and fire at its Lake Road Power Plant.⁵ The Commission ultimately denied SJLP's request for an AAO because a representative of the Company testified that SJLP could have filed an immediate rate case to recover the costs resulting from the incident at issue and, where a rate case could be filed where the appropriate test year would include the relevant incident, there was no reason why the expenses should be deferred through an AAO.⁶

11. As in *SJLP*, the expenses in the case caused by the Missouri River flood may be extraordinary, unique and not recurring, but that does not mean they should be deferred. In *SJLP* the Commission found that ***SJLP could have filed a rate case that likely would have included the expenses it was seeking to defer within the relevant historical period used for setting rates in that rate case.*** In the instant case, KCPL ***filed such a rate case on February 27, 2012***, based on a test year of the twelve months ending September 30, 2011, trued-up through August 31, 2012, which is now pending before the Commission.

⁵ *Id.*

⁶ *Id.* A representative of SJLP testified that SJLP could have filed an immediate rate case in which it could attempt to recover its costs resulting from the Lake Road incident. It did not do so because it did not wish to "muddy the water" regarding SJLP's then pending merger with UtiliCorp United Inc. (UtiliCorp). At that time, approval of the UtiliCorp/SJLP merger was before the Commission in case number EM-2000-292. Part of the proposed regulatory plan put forward by UtiliCorp in that case would have had the Commission impose a five-year rate moratorium on the SJLP unit after the merger. That would mean that SJLP could not bring a rate case within that five-year period. However at the time the Commission issued its Report and Order in the SJLP case, the Commission had rejected UtiliCorp's proposed regulatory plan including the five-year rate moratorium. Therefore, SJLP, either as a stand-alone company or as a unit of UtiliCorp, had become free to file a rate case.

Therefore, there is no necessity for KCPL to have an AAO authorizing it to defer the expenses caused by the Missouri River flooding, as the company's rate case filing is based on a test year and true-up period which encompass the period during which it incurred the costs and did not generate the revenues for which it seeks the AAO.

12. The Staff of the Missouri Public Service Commission respectfully requests that the Commission dismiss this action on the grounds that the Company has filed a rate case in which the test year and true up period encompass the period during which it incurred the costs and did not generate the revenues for which it seeks an AAO, and therefore there is no reason why these items should be deferred through an AAO.

Ungenerated Revenues

13. KCPL should not be authorized to book:

(2) the lesser of the ** _____ ** impact of the flood on OSS margins (such amount revised once the final margin impact is determined) or the actual shortfall for the accumulation period (to be set up at the April 2012 end of the OSS margin tracker accumulation period).

This item represents off-system sales that were never made, these are items that never existed, and therefore cannot be deferred through an AAO.

14. Deferred recording is merely the alternative to current recording as stated in the USOA:

An extraordinary item is simply one that would ordinarily be currently recorded according to the *Definitions and Accounts*. Account No. 182.3 provides:

B. The amounts included in this account are to be established by those ***charges which would have been included*** in net income, or accumulated or other

comprehensive income, determinations ***in the current period*** under the general requirements of [USOA].⁷

Definition No. 31 provides:

Regulatory assets and liabilities arise from ***specific revenues, expenses, gains, or losses that would have been included*** in net income determinations ***in one period*** under the general requirements of [USOA].⁸

This means that those costs that are to be deferred in an AAO are only those assets and liabilities which arise from actual gains and losses which would have been included in net income determinations in the period in which they were experienced. If KCPL could not have recorded the “loss of off-system sale margins” on the books in the period in which they occurred, it should not be able to be deferred through an AAO.

15. In *the Matter of the Application of Southern Union Company for the Issuance of an Accounting Authority Order Relating to its Natural Gas Operations and for a Contingent Waiver of the Notice Requirement of 4 CSR 240-4.020(2)*, Southern Union Company (Southern Union) requested an AAO to record ungenerated revenue in an amount equal to its fixed cost charge times the number of customers who lost service due to the tornado.⁹ In its *Report and Order*, the Commission denied the Company’s request based on the fact that the ungenerated revenue never existed—it was never generated, no service was provided, and there was no exchange of value.¹⁰

⁷ 18 CFR § 101. See also Report and Order, *In the Matter of the Application of Southern Union Company for the Issuance of an Accounting Authority Order Relating to its Natural Gas Operations and for a Contingent Waiver of the Notice Requirement of 4 CSR 240-4.020(2)*, File No. GU-2011-0392 (issued January 25, 2012).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Where Southern Union had no revenues or costs to record in the current period, there was no cost to record in any other period.¹¹

16. Like the ungenerated revenue in the Southern Union AAO case, lost off-system sales margins is not an “item” for any recording period. Allowing deferral of KCPL’s lost off-system sales margins would require creating the item in order to record it and, therefore, it is not the sort of item that can be deferred through an AAO.

17. The Commission should deny the portion of KCPL’s *Application* that requests deferral of the loss of off-system sale margins, because the off-system sales were never made, they never existed, there was no exchange of value, and they could not be recorded in the period in which they “occurred,” therefore they cannot be differed through an AAO.

Alternative Motion to Consolidate

18. In the alternative, only if the Commission declines to dismiss this case, the Commission should consolidate this Case No. EU-2012-0130 with KCPL’s pending rate case, Case No. ER-2012-0174 because KCPL is seeking to recover in that pending rate case the costs it seeks here accounting authority to defer and failing to consolidate would result in duplicative efforts of the Staff.

19. Commission Rule 4 CSR 240-2.110(3) permits the Commission to consolidate cases as follows: “When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.”

¹¹ *Id.*

20. It would be a more efficient use of Commission resources to address the expenses caused by the Missouri River flooding once, in KCPL's pending rate case, rather than to address them twice—first for deferral accounting authority then, again, for setting KCPL's rates. Staff is currently processing a number of electric cases, including three large electric rate cases, one of which is KCPL's. The instant case is unnecessarily taking Commission, Staff, Public Counsel, and other party resources from those cases, and should be consolidated with ER-2012-0174.

WHEREFORE, Staff moves for the Commission to dismiss KCPL's *Application for Accounting Authority Order* in its entirety, dismiss the portion of the *Application* requesting deferral of lost off-system sales margins, or in the alternative, to consolidate the above-captioned matter with KCPL's recently filed rate case, File No. ER-2012-0174.

Respectfully submitted,

/s/ Meghan E. McClowry

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 21st day of March, 2012.

/s/ Meghan E. McClowry