

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of)
Kansas City Power & Light Company for the) **File No. EU-2014-0255**
Issuance of an Order Authorizing Construction)
Accounting Relating to its Electrical Operations)

ORDER DENYING MOTIONS

Issue Date: December 10, 2014

Effective Date: December 10, 2014

Kansas City Power and Light Company ("KCP&L") filed an application with the Commission seeking authorization to use construction accounting treatment through an Accounting Authority Order ("AAO"). An evidentiary hearing on KCP&L's application is set for December 17th and 18th.¹ On November 14th, Commission's Staff filed rebuttal testimony of Mark Oligschlaeger and Keith Majors. On December 3, KCP&L filed a *Motion in Limine Regarding Ratemaking Issues*.

KCP&L argues that in his rebuttal testimony, Mr. Majors improperly discusses ten ratemaking recommendations. KCP&L seeks to exclude that portion of Mr. Majors' testimony.² KCP&L reasons that since a Commission order granting an AAO is not determinative of the ratemaking treatment to be afforded the amounts recorded, Mr. Major's ratemaking testimony is irrelevant and should be excluded, pursuant to § 536.070(8), RSMo (Cum.Supp. 2013). KCP&L seeks to exclude and prohibit any testimony or other evidence relating to ratemaking issues. KCP&L also requests expedited treatment so the Commission may rule on the *motion in limine* by noon on December 10, 2014.

¹ All dates are in 2014, unless indicated otherwise.

² KCP&L's motion specifically seeks to exclude ten recommendations found on pages 34 through 50 of Mr. Majors' rebuttal testimony.

Staff and Midwest Energy Consumers' Group ("MECG") filed timely responses to KCP&L's motions. Staff acknowledges that when granting an AAO, the Commission is not making a ratemaking determination regarding the subject costs.³ Staff disagrees with KCP&L's depiction of Mr. Majors' ten recommendations as a pursuit for ratemaking treatment. According to Staff, Mr. Majors' filed testimony presents recommended changes to KCP&L's calculation of the deferred amounts.

A dispute clearly exists as to the characterization of Mr. Majors' rebuttal testimony. It would be inappropriate for the Commission to rule on the disputed testimony at this time. As MECG correctly points out, the Commission is unable to consider and evaluate the substantive merits of evidence which has yet to be offered and admitted into the record. It would be inappropriate for the Commission to delve into the substantive merits of disputed evidence for a relevancy determination prior to the evidentiary hearing.

By denying KCP&L's *motion in limine*, the Commission is in no way prohibiting KCP&L from objecting to any evidence presented at hearing or restricting KCP&L from disputing Staff's position in its surrebuttal testimony. Staff's response also includes a request to consolidate this file with KCP&L's general rate case, or in the alternative, to dismiss this matter. Since the Commission previously denied Staff's requests, it will not address them now.

THE COMMISSION ORDERS THAT:

1. KCP&L's *Motion in Limine Regarding Ratemaking Issues* is denied.
2. The *Motion for Expedited Treatment* is denied as moot.

³ *State ex rel. Public Counsel v. Pub. Serv. Comm'n*, 858 S.W.2d 806, 813 (Mo. App. 1993.)

3. This order shall be effective when issued.



Kim S. Burton, Regulatory Law Judge,
by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 10th day of December, 2014.

BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary