

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 29th day of
December, 2006.

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval to Make)	<u>Case No. ER-2006-0314</u>
Certain Changes in Its Charges for Electric)	Tariff No. YE-2007-0450
Service to Begin the Implementation of Its)	Tariff No. YE-2007-0451
Regulatory Plan.)	

**ORDER APPROVING TARIFFS IN COMPLIANCE
WITH COMMISSION REPORT AND ORDER**

Issue Date: December 29, 2006

Effective Date: January 1, 2007

On February 1, 2006, Kansas City Power & Light Company submitted to the Commission proposed tariff sheets intended to implement a general rate increase for electrical service provided in its Missouri service area. The Commission issued a Report and Order on December 21, 2006, in which it rejected KCPL's tariffs, but allowed KCPL to file tariffs that comport with the Report and Order.

On December 27, 2006, KCPL filed tariff sheets which the Commission denominated Tariff No. YE-2007-0444, YE-2007-0445, YE-2007-0446, and YE-2007-0447. KCPL stated that these tariffs comply with the Commission's December 21, 2006 Report and Order, and KCPL requested that the tariffs become effective for service on and after January 1, 2007. On December 28, the Commission ordered Staff to file a Recommendation no later than 10:00 a.m., December 29.

On December 28, KCPL withdrew those tariffs, and filed new ones bearing an effective date of January 29, 2007. The Commission denominated those tariff sheets as

Tariff No. YE-2007-0450 and YE-2007-0451. Along with the new tariffs, KCPL filed a Motion for Expedited Treatment in which it asks the Commission to approve the new tariffs as of January 1, 2007.

Later on December 28, the Office of the Public Counsel responded, asking the Commission to deny KCPL's requests. OPC states that KCPL has failed to comply with Section 386.700 RSMo, which requires the Public Counsel be served with all proposed tariffs.¹ Furthermore, OPC points out that KCPL failed to state whether other parties consented to this expedited treatment, and that OPC, in fact, objects to expedited treatment. Finally, OPC disputes KCPL's contention that there would be no negative effect if the Commission granted the motion for expedited treatment, stating that new, higher rates going into effect approximately one month earlier than the effective date of the tariffs translates into one more month of higher rates for KCPL ratepayers.

The Staff of the Missouri Public Service Commission filed its Recommendation on December 29, 2006. Staff stated that the tariff sheets YE-2007-0450 and 0451 comply with the Commission's December 21, 2006 Report and Order, and recommended that the Commission approve them. Staff also stated that the Commission's December 21, 2006 Report and Order states good cause for the Commission to approve the tariffs on less than 30 days' notice because that Report and Order finds that KCPL does not have adequate revenue to meet its cost of service. In addition, Staff comments on the Commission's December 21, 2006 Report and Order's effect of allowing KCPL \$28,937,577 in traditional revenue requirement, with \$21,679,061 in Experimental Regulatory Plan additional

¹ The statute requiring the Public Counsel to be served with all proposed tariffs is actually Section 386.710.2 RSMo 2000; all further statutory references shall be to RSMo 2000 unless otherwise stated.

amortizations, for a total of \$50,616,638 additional revenue requirement. Staff asks that any order approving KCPL's tariffs include this language.

The Commission reviewed the tariff filings and the Staff Recommendation, and determines that the filings comply with the Commission's order. The Commission further finds that good cause for KCPL to be excused from the Section 393.140(11) requirement that tariffs have a 30-day effective date.

OPC's objections that it has not been served with the tariffs appear to be solely that KCPL failed to properly serve OPC. As opposed to OPC's objection to the substance of the tariffs in Empire's pending rate case,² OPC does not state any substantive objection to the proposed KCPL tariffs.

The purpose of serving is to give notice. OPC is certainly aware of the tariffs, or else would not have objected so quickly. As OPC acknowledged in its pleadings, OPC is able to use the Commission's Electronic Filing Information System (EFIS) to review the tariffs, even if KCPL filed those tariffs inappropriately in EFIS, which the Commission suspects could be the cause of any delay in OPC receiving service of those tariffs. While Section 386.710.2 requires that OPC be served with all tariffs, the Commission sees no remedy in that statute for failure to properly serve OPC;³ further, OPC seems to suffer little, if any harm, due to the tariffs' availability in EFIS. Also, as correctly stated by KCPL in its motion, the Commission routinely approves of tariffs filed to comply with Reports and Orders on less than thirty days' notice. Finally, the Commission notes that its

² Commission Case No. ER-2006-0315, *Response to Motion for Expedited Consideration and Approval of Tariff Sheets Filed in Compliance with Commission Order On Less Than Thirty Days' Notice* (filed December 288, 2006).

³ See *Runquist v. Director of Revenue*, 62 S.W.3d 643, 646 (Mo.App. 2001); *State v. Conz*, 756 S.W.2d 543, 546 (Mo.App. 1988)(stating that statutes failing to list a remedy for failure to follow a statute are directory, rather than mandatory, thereby allowing an action under the statute to proceed).

December 21, 2006 order is not final, and that up until the order's effective date, OPC, and any other party, may ask for rehearing or reconsideration.

IT IS ORDERED THAT:

1. The Motion for Expedited Treatment filed by Kansas City Power & Light Company is granted.
2. The Commission's December 21, 2006 Report and Order allows Kansas City Power & Light Company \$28,937,577 in traditional revenue requirement, with \$21,679,061 in Experimental Regulatory Plan additional amortizations, for a total of \$50,616,638 additional revenue requirement.
3. The following tariff sheets in Tariff Nos. YE-2007-0450 and YE-2007-0451, issued December 28, 2006, are hereby approved to become effective on January 1, 2007:

P.S.C. Mo. No. 7

- 3rd Revised Sheet No. 5A, Canceling 2nd Revised Sheet No. 5A
- 3rd Revised Sheet No. 5B, Canceling 2nd Revised Sheet No. 5B
- 3rd Revised Sheet No. 8, Canceling 2nd Revised Sheet No. 8
- 2nd Revised Sheet No. 8A, Canceling 1st Revised Sheet No. 8A
- 2nd Revised Sheet No. 9, Canceling 1st Revised Sheet No. 9
- 3rd Revised Sheet No. 9A, Canceling 2nd Revised Sheet No. 9A
- 3rd Revised Sheet No. 9B, Canceling 2nd Revised Sheet No. 9B
- 2nd Revised Sheet No. 9C, Canceling 1st Revised Sheet No. 9C
- 1st Revised Sheet No. 9E, Canceling Original Sheet No. 9E
- 2nd Revised Sheet No. 10, Canceling 1st Revised Sheet No. 10
- 3rd Revised Sheet No. 10A, Canceling 2nd Revised Sheet No. 10A
- 3rd Revised Sheet No. 10B, Canceling 2nd Revised Sheet No. 10B
- 3rd Revised Sheet No. 10C, Canceling 2nd Revised Sheet No. 10C
- 1st Revised Sheet No. 10E, Canceling Original Sheet No. 10E
- 2nd Revised Sheet No. 11, Canceling 1st Revised Sheet No. 11
- 3rd Revised Sheet No. 11A, Canceling 2nd Revised Sheet No. 11A
- 3rd Revised Sheet No. 11B, Canceling 2nd Revised Sheet No. 11B
- 3rd Revised Sheet No. 11C, Canceling 2nd Revised Sheet No. 11C
- 1st Revised Sheet No. 11E, Canceling Original Sheet No. 11E
- 3rd Revised Sheet No. 14A, Canceling 2nd Revised Sheet No. 14A
- 3rd Revised Sheet No. 14B, Canceling 2nd Revised Sheet No. 14B
- 3rd Revised Sheet No. 14C, Canceling 2nd Revised Sheet No. 14C
- 1st Revised Sheet No. 14E, Canceling Original Sheet No. 14E
- 2nd Revised Sheet No. 17, Canceling 1st Revised Sheet No. 17
- 3rd Revised Sheet No. 17A, Canceling 2nd Revised Sheet No. 17A

1st Revised Sheet No. 17D, Canceling Original Sheet No. 17D
 2nd Revised Sheet No. 18, Canceling 1st Revised Sheet No. 18
 3rd Revised Sheet No. 18A, Canceling 2nd Revised Sheet No. 18A
 3rd Revised Sheet No. 18B, Canceling 2nd Revised Sheet No. 18B
 3rd Revised Sheet No. 18C, Canceling 2nd Revised Sheet No. 18C
 1st Revised Sheet No. 18E, Canceling Original Sheet No. 18E
 2nd Revised Sheet No. 19, Canceling 1st Revised Sheet No. 19
 3rd Revised Sheet No. 19A, Canceling 2nd Revised Sheet No. 19A
 3rd Revised Sheet No. 19B, Canceling 2nd Revised Sheet No. 19B
 3rd Revised Sheet No. 19C, Canceling 2nd Revised Sheet No. 19C
 1st Revised Sheet No. 19D, Canceling Original Sheet No. 19D
 3rd Revised Sheet No. 20C, Canceling 2nd Revised Sheet No. 20C
 2nd Revised Sheet No. 20D, Canceling 1st Revised Sheet No. 20D
 2nd Revised Sheet No. 28B, Canceling 1st Revised Sheet No. 28B
 3rd Revised Sheet No. 30, Canceling 2nd Revised Sheet No. 30
 3rd Revised Sheet No. 33, Canceling 2nd Revised Sheet No. 30
 1st Revised Sheet No. 33A, Canceling Original Sheet No. 33A
 1st Revised Sheet No. 33B, Canceling Original Sheet No. 33B
 3rd Revised Sheet No. 35, Canceling 2nd Revised Sheet No. 35
 3rd Revised Sheet No. 35A, Canceling 2nd Revised Sheet No. 35A
 3rd Revised Sheet No. 35B, Canceling 2nd Revised Sheet No. 35B
 3rd Revised Sheet No. 35C, Canceling 2nd Revised Sheet No. 35C
 3rd Revised Sheet No. 35D, Canceling 2nd Revised Sheet No. 35D
 3rd Revised Sheet No. 36, Canceling 2nd Revised Sheet No. 36
 3rd Revised Sheet No. 36A, Canceling 2nd Revised Sheet No. 36A
 3rd Revised Sheet No. 36B, Canceling 2nd Revised Sheet No. 36B
 3rd Revised Sheet No. 37, Canceling 2nd Revised Sheet No. 37
 3rd Revised Sheet No. 37A, Canceling 2nd Revised Sheet No. 37A
 3rd Revised Sheet No. 37B, Canceling 2nd Revised Sheet No. 37B
 3rd Revised Sheet No. 37C, Canceling 2nd Revised Sheet No. 37C
 3rd Revised Sheet No. 37D, Canceling 2nd Revised Sheet No. 37D
 3rd Revised Sheet No. 37E, Canceling 2nd Revised Sheet No. 37E
 3rd Revised Sheet No. 37F, Canceling 2nd Revised Sheet No. 37F
 3rd Revised Sheet No. 37G, Canceling 2nd Revised Sheet No. 37G
 3rd Revised Sheet No. 45, Canceling 2nd Revised Sheet No. 45
 3rd Revised Sheet No. 45A, Canceling 2nd Revised Sheet No. 45A

P.S.C. Mo. No. 2

1st Revised Sheet No. 1.01, Canceling Original Sheet No. 1.01
 3rd Revised Sheet No. 1.02, Canceling 2nd Revised Sheet No. 1.02
 11th Revised Sheet No. 1.04, Canceling 10th Revised Sheet No. 1.04
 3rd Revised Sheet No. 1.07, Canceling 2nd Revised Sheet No. 1.07
 3rd Revised Sheet No. 1.08, Canceling 2nd Revised Sheet No. 1.08
 2nd Revised Sheet No. 1.09A, Canceling 1st Revised Sheet No. 1.09A
 4th Revised Sheet No. 1.11, Canceling 3rd Revised Sheet No. 1.11
 6th Revised Sheet No. 1.14, Canceling 5th Revised Sheet No. 1.14
 8th Revised Sheet No. 1.26, Canceling 7th Revised Sheet No. 1.26
 2nd Revised Sheet No. 1.28, Canceling 1st Revised Sheet No. 1.28

4th Revised Sheet No. 1.31, Canceling 3rd Revised Sheet No. 1.31
3rd Revised Sheet No. 1.32, Canceling 2nd Revised Sheet No. 1.32

4. This order shall become effective on January 1, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray and Appling, CC., concur
Gaw and Clayton, CC., dissent

Pridgin, Senior Regulatory Law Judge