

**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	)	Case No. ER-2007-0291
Certain Changes in its Charges for Electric	)	
Service to Implement its Regulatory Plan	)	

**MOTION TO REJECT TARIFFS AND  
MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Pershing Road Development Company, LLC. ("PRDC") and for its Motion to Reject Tariffs and Motion for Expedited Treatment respectfully states as follows:

1. On February 1, 2007, Kansas City Power & Light ("KCPL") filed tariffs designed to implement a rate increase of \$45.4 million.<sup>1</sup> Included in the KCPL request are revenues associated with an additional amortization mechanism purportedly established by a Stipulation and Agreement in Case No. EO-2005-0329.<sup>2</sup> Specifically, the direct testimony of Michael Cline indicates that KCPL's request included additional amortization revenue in the amount of approximately \$31 million.<sup>3</sup>

2. The quantification of the additional amortization revenues is largely based upon KCPL's total capitalization and total debt. Included in this total capitalization and total debt are components used to support KCPL's investment in Iatan 2 and other construction projects that are not "fully operational and used for service."

3. Section 393.135 RSMo., passed as a referendum of the Missouri citizens in 1976, provides that:

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<sup>1</sup> See, *Application* filed February 1, 2007, at page 7.

<sup>2</sup> The Stipulation and Agreement in Case No. EO-2005-0329 was not signed by PRDC. Therefore, the terms of that Stipulation and Agreement are not binding on PRDC.

<sup>3</sup> See, Direct Testimony of Michael Cline, filed February 1, 2007, at page 7.

Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.

4. Recognizing that KCPL's tariffs include requested revenues that are based upon capitalization used to support KCPL's "costs of construction in progress" in existing and new facilities, those proposed tariffs are *de facto* unjust and unreasonable, and are prohibited.

5. Interestingly, the Empire District Electric Company also implemented an additional amortization mechanism in the context of its recent regulatory plan. As a participant in the same Iatan 2 generation facility, as well as other generation construction, Empire also has capitalization dedicated to construction in progress. In Empire's recent rate decision, Case No. ER-2006-0315, the Commission authorized a rate increase based in part on Empire's regulatory amortization mechanism. A press release issued by Empire shortly after the Commission's decision reflects the fact that these additional amortization revenues support construction work in progress.

The order issued by the Commission contains two components. The first component provides an addition to base rates, which the Commission has reported is approximately \$20 million. **The second component is an amortization that provides Empire additional cash through rates, which allows Empire to begin recovery of costs associated with its current generation expansion.** This expansion, which is a part of the Company's long-range plan to ensure future reliability, includes the facilities at the Riverton Power Plant and Iatan 2 Power Plant, as well as environmental improvements at the Asbury Power Plant and at Iatan 2.<sup>4</sup>

6. As indicated, the proposed tariffs include rates that are *de facto* "unjust and unreasonable" and are "prohibited" by Missouri law. In such case, the proper

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<sup>4</sup> See, Empire Press Release dated December 22, 2006, *The Empire District Electric Company Announces New Missouri Electric Rates*.

remedy is not to suspend such tariffs and waste time, money and resources in studying those tariffs. Rather, the appropriate remedy is to immediately reject those tariffs as the Commission cannot lawfully approve them.

7. 4 CSR 240-2.080(16) provides clear direction for a party to request Expedited Treatment. Pursuant to the direction contained in the Commission Rule, PRDC states that they request that the Commission act by September 1, 2007. Additionally, while KCPL's rate request was filed in February, the inclusion of the additional amortization revenues as well as the methodology for calculating those amortization revenues only recently became apparent during counsel's preparation for the scheduled settlement conference. As such, this document was filed as soon as possible given that it was filed within days of counsel becoming aware that KCPL's proposed tariffs violate the provisions of Section 393.135.

8. As explained in Paragraph 6, granting this Motion on an expedited basis will avoid harm to KCPL ratepayers by avoiding the time, cost and wasted resources associated with litigating proposed rate tariffs that are *de facto* unjust and unreasonable. Moreover, by rejecting those tariffs now, the Commission provides KCPL the opportunity to file other rate increase tariffs that conform to Missouri statutes.

WHEREFORE, PRDC respectfully requests that the Commission issue its Order Granting Expedited Treatment and Rejecting KCPL's proposed rate increase tariffs filed February 1, 2007.

Respectfully submitted,

/s/ Jeremiah D. Finnegan

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

/s/ Jeremiah D. Finnegan

Dated: August 17, 2007