

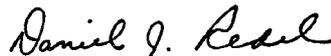
STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
Jefferson City, Missouri
November 25, 1986

CASE NO. EF-87-29

Mark English, Attorney, KansasCity Power & Light Co., 1330 Baltimore Ave.
Kansas City, MO 64105
A. Drue Jennings, Senior Vice President, Kansas City Power and Light Co.,
1330 Baltimore Ave., Kansas City, MO 64105

Enclosed find certified copy of ORDER in the above-numbered case.

Sincerely,



Daniel J. Redel
Acting Secretary

uncertified copy:

Office of Public Counsel, P.O. BOX 7800, Jefferson City, MO 65102

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 25th
day of November, 1986.

Case No. EF-87-29

In the matter of the application
of Kansas City Power & Light
Company for authority to acquire
certain share of stock of Wolf
Creek Nuclear Operating Company.

ORDER

On October 1, 1986, Kansas City Power & Light Company (KCPL) filed its Application requesting authority to acquire certain shares of stock of the Wolf Creek Nuclear Operating Company (WCNOC). KCPL stated that it is aware that Section 393.190.2, RSMo Supp. (1984), requires Commission approval for any electric utility within its jurisdiction to "...acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business...." However, KCPL further stated that it does not believe that its proposed acquisition of Class B Common Stock of WCNOC falls within the terms of that requirement. To resolve any possible question regarding the applicability of Section 393.190.2, RSMo Supp. (1984), to this case, KCPL filed this Application.

The Commission, upon consideration of the Application, the exhibits offered in support thereof and the recommendation of its Staff, determines that a hearing is unnecessary to resolve the issues herein and finds and concludes as follows:

KCPL is a corporation duly organized and existing under the laws of the State of Missouri, with its principal office at 1330 Baltimore Avenue, Kansas City, Missouri 64105. KCPL is an electrical corporation and public utility as defined in Section 386.020, RSMo Supp. (1984). KCPL is engaged principally in the generation, transmission, distribution and sale of electric energy and power in Missouri and

Kansas, and to a lesser extent in the furnishing of steam heating service in downtown Kansas City, Missouri.

KCPL has a 47 percent undivided ownership interest in Wolf Creek Generating Station (Wolf Creek), located near Burlington, Kansas. The other owners of Wolf Creek are Kansas Gas and Electric Company (KGE), a 47 percent owner, and Kansas Electric Power Cooperative, Inc. (KEPCO), a 6 percent owner. KCPL stated that the owners have caused to be incorporated under Delaware law on April 14, 1986, WCNOG, for the purpose of operating, maintaining, repairing, decommissioning and decontaminating Wolf Creek. According to KCPL, WCNOG will not own any electric plant, as that term is defined in Section 386.020.5, RSMo Supp. (1984). KCPL also stated that WCNOG will not engage in the sale or transmission of electricity. KCPL commented that the ownership of Wolf Creek equipment, plant and generating machinery shall continue to reside in the owners, while responsibility for the operation of Wolf Creek shall be transferred to WCNOG upon the receipt of all necessary authorizations.

KCPL stated that a copy of WCNOG's Certificate of Incorporation and Bylaws are attached to the Application as Exhibits A and B. A Copy of the Operating Agreement entered into by WCNOG, KCPL, KGE and KEPCO is attached to the Application as Exhibit C. KCPL stated that the Operating Agreement sets forth WCNOG's responsibilities, as operating agent for the owners, of continuing the safe operation, maintenance and repair of Wolf Creek and for its eventual decontamination and decommissioning. WCNOG, according to KCPL, will charge no fees and make no profit; its actual costs will be reimbursed by the owners in proportion to their ownership interests.

KCPL stated that WCNOG does not have outstanding any securities. During 1986, it expects to issue 100 shares of Common Stock of the par value of \$1.00 per share, consisting of 47 shares of Class A Common Stock, all of which will be owned by

KGE, 47 shares of Class B Common Stock, all of which will be owned by KCPL, and 6 shares of Class C Common Stock, all of which will be owned by KEPCO. KCPL commented that the owners of all the shares of the Common Stock of WCNOG will be identical with the owners, and their respective ownership shares of undivided interests as tenants-in-common in Wolf Creek.

KCPL stated that WCNOG's Certificate of Incorporation provides that its board of directors shall consist of 13 individuals, 5 of whom shall be elected by the holders of WCNOG's Class A Common Stock (the "Class A" directors), 5 of whom shall be elected by the holders of WCNOG's Class B Common Stock (the "Class B" directors), 2 of whom shall be elected by the holders of WCNOG's Class C Common Stock (the "Class C" directors), and the 13th of whom (who shall also be Applicant's chief executive officer) shall be elected by all shares of WCNOG's Common Stock voting as a single class. The names and mailing addresses of each of WCNOG's twelve initial directors, each of whom is a citizen of the United States, are set forth in Article Four of said Certificate of Incorporation. KCPL stated that the 13th director and chief executive officer has not yet been selected and elected to office.

According to KCPL, the formation of WCNOG will accomplish a transfer of the direct responsibility for operating, maintaining, repairing, decontaminating and decommissioning Wolf Creek from the owners' present Operating Agent to WCNOG. To enable WCNOG to carry out that responsibility, most employees who are currently involved in the operation and support of the plant, both at the site and in the home offices of both KGE and KCPL, will be transferred to WCNOG.

To perform the responsibilities set forth in the Operating Agreement, WCNOG and/or its prospective shareholders require the following governmental authorizations or filings:

- (a) the issuance by the Kansas Corporation Commission of a Certificate of Public Convenience and Authority to WCNOG; an Application for such was filed on July 29, 1986;

- (b) the issuance by the Nuclear Regulatory Commission (NRC) of an amendment to the operating license for Wolf Creek under the Atomic Energy Act, permitting WCNOG to assume the operating responsibilities for Wolf Creek now held by KGE; an application for such was filed on April 15, 1986, and notice of such was given in Volume 51, No. 156, p. 29002 of the Federal Register dated August 13, 1986;
- (c) the exemption of KCPL and KGE from the provisions of the Public Utility Holding Company Act of 1935 (PUHCA) other than Section 9(a)(2) thereof; Section 3(a)(2) of PUHCA and Rule 2 thereunder provide that such exemption shall be effective upon the filing in good faith of exemption statements with the Securities and Exchange Commission;
- (d) authorization under Section 305(b) of the Federal Power Act for certain WCNOG's officers and directors to hold such positions and also to hold positions as officers and directors of KCPL or KGE.

On November 17, 1986, KCPL filed a letter stating that the NRC issued on November 4, 1986, Amendment No. 4 to the Facility Operating License, permitting the licensed activities to be under the control of WCNOG effective January 1, 1987. KCPL also attached a copy of Amendment No. 4 to its letter as Exhibit F.

KCPL attached to its Application as Exhibit D a certified copy of the resolution of its board of directors, authorizing all necessary, proper or convenient actions for the transfer of operating responsibility to WCNOG. WCNOG's board of directors' Resolution is attached to this Application as Exhibit E. This resolution deals with the extent of KCPL's right to access the books, accounts, memoranda and other records of WCNOG, the extent of its access to the plant facilities and certain personnel and the Board's commitment regarding ownership of plant facilities. A copy of this resolution is attached to this Order as Attachment 1.

KCPL contended that its acquisition of the Class B Common Stock to be issued by WCNOG will not be detrimental to the public interest but, will in fact be in the public interest. KCPL stated that given the size and importance of Wolf Creek for each of its three owners and the State of Missouri, the public interest and convenience will be served by the consolidation and integration of the resources of

the owners relating to Wolf Creek into a single organization, dedicated solely to the safe and economic operation of Wolf Creek and accountable to the owners, and by integrating and centralizing responsibility for the operation of Wolf Creek into that single organization. KCPL also stated that the consolidation of resources and responsibility into such a single accountable organization will enhance the coordination of the owners' policies and responsibilities for the operation, maintenance and repair of Wolf Creek. KCPL noted that the owners have examined various institutional arrangements at other multi-owner nuclear stations, finding general concurrence in and support for the advisability of establishing a single accountable organization formally structured to take responsibility for the day-to-day management and operation of such nuclear station.

KCPL stated in its Application that:

The formation and operation of WCNOG do not have the intent or effect of insulating Wolf Creek's investment or operation from this Commission's jurisdiction and oversight. While WCNOG is a separate corporation, all of its activities will be carried out as an agent for the owners. Under Article 7 of the Operating Agreement, WCNOG cannot own any utility property; a unanimous vote of the owners is required to amend the Operating Agreement, and KCPL will provide to this Commission 30 days' advance written notice of proposed amendments to the Certificate of Incorporation, Bylaws and Operating Agreement. KCPL will also provide the Commission with a copy of any proposed changes to the Wolf Creek Operating License. In addition, KCPL would be required to obtain Commission approval pursuant to Section 393.190.1, RSMo Supp. (1984), for any future transfer of Wolf Creek ownership to WCNOG (not currently contemplated), and hereby commits to do so in that eventuality. Finally, KCPL, and thus this Commission, has the right under the Operating Agreement to inspect the books, records and memoranda prepared and kept by WCNOG.

KCPL argued that its proposed acquisition of the Class B Common Stock of WCNOG does not fall within the terms of Section 393.190.2, RSMo Supp. (1984). KCPL contended that the requirement in Section 393.190.2, RSMo Supp. (1984) is part of a statutory scheme which was promulgated to confer jurisdiction by the Commission over purchases of stock by electric utilities or holding companies which can determine,

change or affect the nature of the corporate entities providing electric utility service within Missouri. Because WCNOG will not own any utility property and will not engage in the business of selling electricity, either at wholesale or retail, KCPL argued that WCNOG will not be engaged in "the same or a similar business" within the meaning of Section 393.190.2, RSMo 1978. In addition, KCPL contends that because WCNOG has been established solely to assume operating responsibility for Wolf Creek, and is not located in Missouri, its acquisition of Class B Common Stock will not be an acquisition of stock of the kind that section was intended to cover.

KCPL noted that Section 393.190.2, RSMo Supp. (1984), makes void any stock transfer in contravention of that section. KCPL stated that without waiving its interpretation of the inapplicability of that section to its intended purchase of WCNOG's Class B Common Stock, it is requesting authority from this Commission to purchase the 47 shares of Class B Common Stock of WCNOG.

On November 12, 1986, the Staff of the Missouri Public Service Commission (Commission Staff) filed its Memorandum. Therein, the Commission Staff stated that based upon its review of the formation of WCNOG and the assurances specifically provided by KCPL relating to the formation and operation of WCNOG, it would appear that the acquisition by KCPL of 47 shares of Class B Common Stock of WCNOG would not be detrimental to the public interest. The Commission Staff further stated that it had no objection to the Commission granting KCPL said authority. The Commission Staff attached to its Memorandum the correspondence and documents which provided KCPL's assurances regarding the concerns of the Staff.

The Commission Staff stated it believed the first sentence of that Section 393.190.2, RSMo Supp. (1984), and case law indicate that said statutory provision is applicable to the instant situation.

Section 393.190.2, RSMo Supp. (1984), states that:

No such corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or

engaged in, the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality; neither shall any street railroad corporation acquire the stock or bonds of any electrical corporation, unless in either case, authorized so to do by the commission.

The Commission notes that the definitions of electrical corporation and electric plant in Section 386.020, RSMo Supp. (1984) are:

5. The term "electric plant", when used in this chapter, includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.
6. The term "electrical corporation", when used in this chapter, includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, other than a railroad or street railroad corporation generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others, owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad or street railroad purposes or for its own use or the use of its tenants and not for sale to others.

The Commission finds that both KCPL and WCNOG will be operating electric plants. Therefore, both corporations will be engaged in the same or a similar business. The Commission finds that pursuant to Section 393.190.2, RSMo Supp. (1984), it has jurisdiction to determine whether to authorize KCPL to acquire 47 shares of Class B Common Stock of the Wolf Creek Nuclear Operating Company.

Based upon its Staff's investigation and KCPL's assurances, the Commission finds that the formation and operation of WCNOG should not impede its regulatory functions including its investigatory and ratemaking duties in regard to KCPL's 47 percent ownership of Wolf Creek. Having considered KCPL's Application and the

Commission Staff's recommendation, the Commission finds that KCPL should be granted authority to acquire 47 shares of Class B Common Stock.

It is, therefore,

ORDERED: 1. That Kansas City Power & Light Company be, and hereby is, authorized to acquire 47 shares of Class B Common Stock of the Wolf Creek Nuclear Operating Company.

ORDERED: 2. That Kansas City Power & Light Company shall file a letter notifying the Commission within thirty (30) days of receipt of any required governmental authorizations necessary for the operation of the Wolf Creek Nuclear Operating Company.

ORDERED: 3. That nothing in this Order shall be considered as a finding by the Commission of the reasonableness of the expenditures herein involved, nor of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the value placed upon said properties by the applicant. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded these financing transactions, and their resulting cost of capital, in any later proceeding.

ORDERED: 4. That this Order shall become effective on the 3rd day of December, 1986.

BY THE COMMISSION

Daniel J. Redel
Daniel J. Redel
Acting Secretary

(S E A L)

Musgrave, Mueller, Hendren
and Fischer, CC., Concur.
Steinmeier, Chm., Absent.

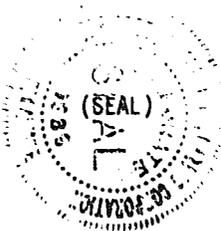
WOLF CREEK NUCLEAR OPERATING CORPORATION
CERTIFICATE OF SECRETARY

I, A. Drue Jennings, Secretary of Wolf Creek Nuclear Operating Corporation (the "Company"), do hereby certify that attached hereto is a true and correct copy of an excerpt from the minutes and a resolution duly adopted by the Board of Directors of said Wolf Creek Nuclear Operating Corporation at a meeting held on September 26, 1986, at which a quorum for the transaction of business was present and acting throughout, which resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company as of this 29th day of September, 1986.



Secretary
Wolf Creek Nuclear Operating Corporation



As the next item of business, the Chairman called upon Arthur J. Doyle, a member of the Board and Chairman of the Board of Kansas City Power & Light Company (KCPL). Mr. Doyle requested that the Board confirm the extent of KCPL's right to access to the books, accounts, memoranda and other records of Wolf Creek Nuclear Operating Corporation (the "Corporation") and the extent of its access to the plant facilities and certain personnel. Mr. Doyle further requested the Board to confirm its commitment regarding ownership of plant facilities.

There ensued discussion of the intent, purpose and commitments of the Owners, individually and collectively, in forming this Corporation, and a review of the Corporation's Certificate of Incorporation and By-Laws, and the Wolf Creek Generating Station Operating Agreement entered into on April 15, 1986 (Operating Agreement). Thereupon, on motion duly made by Mr. Wilson K. Cadman, a member of the Board and Chairman of the Board of Kansas Gas and Electric Company (KGE), seconded by Mr. Charles L. Ross, a member of the Board and Executive Vice President of Kansas Electric Power Cooperative, Inc. (KEPCo), and unanimously adopted, it was:

RESOLVED, that the Corporation is an Operating Agent for KCPL and the other Owners of the Wolf Creek Generating Station (WCGS). The Plant facilities are owned jointly by KCPL with a 47% ownership interest, KGE with a 47% ownership interest and KEPCo with a 6% ownership interest. The Corporation will not own any property associated with WCGS. The Corporation will purchase and account to the Owners, for all materials and services, as agent for the Owners of WCGS, by disbursing the funds of the Owners for such materials and services as well as other expenses.

RESOLVED, that as a joint Owner of the Corporation, KCPL jointly owns all books, accounts, memoranda and other records of the Corporation both now in existence or hereafter created which are or will be in the custody of the Corporation held for all Owners jointly, and the Corporation will not interfere with KCPL's access to such records, including KCPL's facilitation of lawful, reasonable access to such records by governmental agencies having jurisdiction over KCPL's joint ownership of WCGS.

RESOLVED, that as a joint Owner of WCGS, KCPL is entitled to have access to plant facilities provided that its designated representatives are in compliance with the policies, procedures, terms and conditions of the Corporation's access procedures. Subject to such policies, procedures, terms and conditions, the Corporation will not interfere with KCPL's access to plant facilities, including KCPL's facilitation of lawful, reasonable access to plant facilities by governmental agencies having jurisdiction over KCPL's joint ownership of WCGS.

RESOLVED, that as joint Owner of WCGS, KCPL is entitled to attend meetings of the Corporation, and to meet with employees of the Corporation, contractors and consultants. The Corporation will not interfere with KCPL's access thereto. Neither will the Corporation interfere with KCPL's facilitation of reasonable access to plant status meetings and employees of the Corporation, contractors and consultants by governmental agencies having jurisdiction over KCPL's joint ownership of WCGS, when in the judgment of the President of the Corporation said access will not interfere with the safe and efficient operation of WCGS nor encumber the decision making process of the Corporation with respect to said operation.

Fenske / Coffey

CASE NO. EF-87-29

[Signature]
Chairman

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

11/25

needs to go out by 11/26

EI-02/82

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, this 25th day of November 1986.

Daniel J. Redel

Daniel J. Redel
Acting Secretary