

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

R20 Binder

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 19th
day of April, 1989.

State of Missouri, ex rel.)
Stephen B. Bradford, Commissioner,)
Office of Administration,)

Complainant,)

vs.)

Kansas City Power & Light Company,)

Respondent.)

CASE NO. EC-81-197

ORDER GRANTING MOTION TO DISMISS

On March 24, 1989, Kansas City Power & Light Company (Respondent) filed its Motion Of Kansas City Power & Light Company To Affirm Prior Report And Order And Dismiss Proceedings. The Respondent simultaneously filed its Separate Hearing Memorandum Of Kansas City Power & Light Company. There has been no response from any of the other parties. For that, and the additional reasons given herein, the Commission is of the opinion that the motion should be granted.

In the instant complaint the Commission's Report and Order, issued January 8, 1982, authorizing imposition of a late payment charge on accounts of the State of Missouri, was affirmed on appeal to the Cole County Circuit Court. On further appeal, the Court of Appeals for the Western District of Missouri, in a decision rendered July 24, 1984, affirmed the imposition of the late payment charge but remanded the case for further proceedings to determine a proper period of time before imposition of the late charges. The Cole County Circuit Court remanded this matter to the Commission by Order dated March 24, 1988.

In 1985 the Missouri Legislature enacted Section 34.055, RSMo which states in pertinent part as follows:

Beginning July 1, 1986, all invoices for supplies and services purchased by the state, duly approved and processed, shall be subject to late payment charges as provided herein. After the forty-fifth day following the later of the date of delivery of the supplies and services or the date upon which the invoice is duly approved and processed, interest at the rate determined by section 32.065, RSMo, and retroactive to the thirtieth day shall be paid on any unpaid balance upon application of the vendor thereof....No late payment penalty shall be assessed against, nor payable by, the state unless pursuant to the provisions of this section.

By order issued April 26, 1988, the Commission set a prehearing conference for June 7, 1988. The prehearing conference was for the purpose of requesting a joint recommendation from the parties as to the nature of appropriate further proceedings, if any. To date, no recommendation has been received from any party other than the Respondent.

It is the Respondent's contention in its motion that the issues involved in the remand have been rendered moot by the action of the Legislature during the period intervening between the remand to the Cole County Circuit Court and that Court's remand to the Commission. Respondent's filings herein set forth extensive authority in support of the mootness contention.

Upon review of the motion and the separate hearing memorandum, the Commission is of the opinion that the motion should be granted. The enactment of Section 34.055, RSMo precludes the Commission from finding reasonable any period of time for the imposition of late payment charges other than the period specified therein.

It is, therefore,

ORDERED: 1. That the Motion Of Kansas City Power & Light Company To Affirm Prior Report And Order And Dismiss Proceedings, filed herein on March 24, 1989, be, and is, hereby granted; Case No. EC-81-197 be, and is, hereby dismissed, and no further proceedings shall be held herein.

ORDERED: 2. That this Order shall become effective on May 2, 1989.

BY THE COMMISSION

Harvey G. Hubbs
Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Mueller, Hendren,
Fischer and Rauch, CC., Concur.