

**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)	
Certain Changes in its Charges for Electric)	<u>Case No. ER-2006-0314</u>
to Service Begin the Implementation of Its)	
Regulatory Plan)	

**RESPONSE TO WITHDRAWAL OF TARIFF SHEETS AND
MOTION FOR EXPEDITED CONSIDERATION AND
APPROVAL OF TARIFF SHEETS FILED IN COMPLIANCE WITH
COMMISSION ORDER ON LESS THAN THIRTY DAYS' NOTICE**

COMES NOW the Office of the Public Counsel and for its Response to Withdrawal of Tariff Sheets and Motion for Expedited Consideration and Approval of Tariff Sheets Filed in Compliance with Commission Order on Less than Thirty Days' Notice states as follows:

1. On December 21, 2006¹ the Commission issued its Report and Order, in which it, *inter alia*, rejected the tariff sheets requesting a general rate increase that the Kansas City Power & Light Company filed on February 1. The Commission also authorized KCPL to file new tariff sheets that would produce a very substantial increase, albeit somewhat less than KCPL originally requested.

2. On December 27, KCPL filed tariff sheets that it alleges comply with the Commission's Report and Order. These tariff sheets are available on the Commission's Electronic Filing and Information System (EFIS) under the "Resources" and then "Tariffs" screens. They were not filed in Case No ER-2006-0314, the instant case. More importantly, they have not yet been provided to Public Counsel. Section 386.700 RSMo

¹ Unless otherwise noted, all dates refer to calendar year 2006.

2000 requires that: “The Public Counsel shall be served with all proposed tariffs....” Public Counsel has not been served with these proposed tariffs, and the cover letter submitted with the tariffs does not show Public Counsel as having been copied.

3. Furthermore, KCPL, by motion filed on December 28, withdrew those tariff sheets. KCPL’s motion states that new tariff sheets were filed concurrently with that motion, but as of 4:00 P.M. on December 28, the new tariff sheets have not been served on Public Counsel and they do not appear on EFIS.

4. On December 28, KCPL filed a motion for expedited treatment in which it argues that the Commission will violate Section 393.150 RSMo 2000 if it does not “approve[] the revised tariff sheets filed by KCPL to be effective on January 1, 2007.” KCPL does not state that all parties concur with its motion for expedited treatment, and does not even state that it contacted other parties concerning that motion. Public Counsel does not concur in the analysis and legal conclusions contained in KCPL’s motion and so opposes the motion.

5. Unlike the Empire District Electric Company, which filed a similar motion for expedited treatment in Case No. ER-2006-0315, KCPL attempts to comply with one of the requirements of 4 CSR-240-2.080(16) by including the statement: “There will be no negative effect on KCPL’s customers or the general public if the Commission grants this motion and approves the tariff sheets to be effective on and after January 1, 2007.” The statement is required by the Commission’s rule, but in this case it is patently false. If the Commission grants KCPL’s motion and approves the proposed tariffs for service on and after January 1, 2007 rather than for service on and after January 31, 2007 (which is apparently the effective date of the second set of tariffs – that Public Counsel has yet to

see – filed on December 28), KCPL’s customers will be paying higher rates for a month longer than if the motion is not granted. KCPL and the Commission will be hard pressed to find anybody who does not consider that to be a negative effect on customers.

6. Given that KCPL’s request for expedited treatment essentially asks the Commission to act within a day, this response is necessarily cursory. 4 CSR 240-2.080(15) provides that parties shall be allowed not more than ten days from the date of filing in which to respond to any pleading unless otherwise ordered by the Commission. Public Counsel will supplement this response within the 10-day period to more fully explain why KCPL’s analysis and legal conclusions are incorrect.

WHEREFORE, Public Counsel respectfully requests that the Commission deny KCPL’s Withdrawal of Tariff Sheets and Motion for Expedited Consideration and Approval of Tariff Sheets Filed in Compliance with Commission Order on Less than Thirty Days’ Notice.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By:_____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 28th day of December 2006.

/s/ Lewis R. Mills, Jr.

By: _____