



Control Number: 14406



Item Number: 299

Addendum StartPage: 0

PROJECT NO. 14406

**REGISTRATION OF KANSAS CITY POWER & LIGHT COMPANY
AS A POWER MARKETER**

COMES NOW Kansas City Power & Light Company, a Missouri Corporation, and submits the following information for registration as a power marketer in accordance with Substantive Rule 25.1.5 of the Public Utility Commission.

1. Address: Kansas City Power & Light Company
1201 Walnut
Kansas City, MO 64106-2124

Contact: Mike McGeeney
Kansas City Power & Light Company
1201 Walnut
Kansas City, MO 64106-2124
Phone: 816-654-1700
Fax: 816-654-1795
e-mail: mike.mcgeeney@kcpl.com

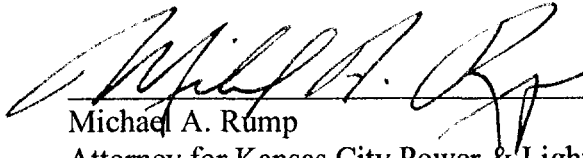
Business: Kansas City Power & Light Company is a public electric utility doing business primarily in the States of Kansas and Missouri and is a wholly-owned subsidiary of Great Plains Energy Incorporated. Great Plains Energy Incorporated is a Missouri Corporation which is an energy holding company.

2. Affiliates that buy or sell electricity at wholesale in Texas or sell electricity at retail in Texas:
Strategic Energy LLC
3. Locations of any facility in Texas used to provide service:
Kansas City Power & Light Company has no facilities in Texas to provide service.
4. Type of service to be provided:
Kansas City Power & Light Company will buy and sell electric power at the wholesale level.

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5. Copies of FERC registration information:
Submitted herewith are copies of Kansas City Power & Light Company's FERC registration information.
6. Affidavit of authorized person that registrant is a power marketer.
Submitted herewith is an affidavit of Stephen T. Easley, Vice President – Generation Services, Kansas City Power & Light Company that the registrant is a power marketer.

RESPECTFULLY SUBMITTED,

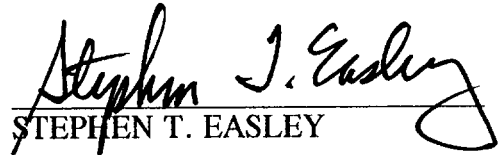


Michael A. Rump
Attorney for Kansas City Power & Light Company

AFFIDAVIT

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On the 22ND day of April, 2004, before me appeared Stephen T. Easley, to me personally known, who, being by me first duly sworn, states that he is the Vice President – Generation Services for Kansas City Power & Light Company; that Kansas City Power & Light Company is a power marketer as defined in the Texas Utilities Code § 31.002 (11); and that he has reviewed the Registration of Kansas City Power & Light Company in Project No. 14406 and that the information therein is true and accurate to the best of his knowledge, information and belief.

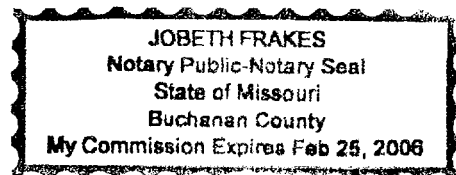

STEPHEN T. EASLEY

Subscribed and sworn to before me this 22nd day of April, 2004.


Notary Public

My Commission Expires:

February 25, 2006



SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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January 20, 1999

Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Amended Filing of Kansas City Power & Light
Company Docket No. ER99-1005-000

Dear Secretary Boergers:

Pursuant to the Commission Staff's request, Kansas City Power & Light ("KCPL") hereby submits for filing an original and six copies (and diskette) of its amendment to its filing dated December 24, 1998, in which KCPL requested changes to the terms and conditions under KCPL's market-based rate tariff.

KCPL hereby amends two items in its proposed Code of Conduct (Appendix A to KCPL's market-based rate tariff, pages 14 and 15) to clarify that KCPL's Code of Conduct complies with the Commission's current requirements.¹ Rule 5 is amended to provide that in the event market information is provided by KCPL to any Marketing Company, KCPL will simultaneously and publicly disclose such information. *Montana-Dakota Utilities Co.*, 85 FERC ¶ 61,062 at 61,202 (1998); *UtiliCorp United, Inc.*, 75 FERC ¶ 61,168 at 61,557 (1996), *reh'g denied*, 76 FERC ¶ 61,192 (1996). Rule 8 (note 1) is amended to clarify that Marketing Companies's salary expenses shall be directly assigned to KCPL for time spent

¹ The revised Code of Conduct (and diskette), and a black-lined version showing the changes, is attached.

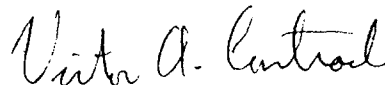
Honorable David P. Boergers
January 20, 1999
Page 2

brokering KCPL resources, and the cost of overheads shall be apportioned to KCPL on the basis of relative energy (kWh) transactions. To the extent necessary, KCPL further requests waiver of the Commission's regulations to permit an effective date no later than February 24, 1999, as previously requested.

This amendment has been mailed to KCPL's customers taking service under KCPL's market-based rate tariff², the Kansas Corporation Commission and the Missouri Public Service Commission. In all other respects KCPL's filing is the same as filed on December 24, 1998.

Also enclosed is a Notice of Filing, suitable for publication in the *Federal Register*, and a copy on diskette.

Respectfully submitted,



Ron Kite
Senior Wholesale Regulatory Analyst
Kansas City Power & Light Company
P.O. Box 418679
Kansas City, MO 64141-9679
Phone: (816) 556-2918
Fax: (816) 556-2787

John S. Moot
Victor A. Contract
Skadden, Arps, Slate,
Meager & Flom LLP
1440 New York Ave., N.W.
Washington, D.C. 20005
Phone: (202) 371-7000
Fax: (202) 393-5760

Counsel for
Kansas City Power & Light Company

Enclosures

² See Tab B of the December 24, 1998 filing.

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

To: Kansas City Power & Light Company Docket No. ER99-1005-000

Pursuant to authority delegated to the Director, Division of Rate Applications, under 18 C.F.R. 375.308, your submittal in the above referenced docket(s) is accepted for filing. Your rate schedule designations are shown on the Enclosure.

Under 18 C.F.R. 385.210, interventions are timely if made within the time prescribed by the Secretary. Under 18 C.F.R. 385.214, the filing of a timely motion to intervene makes the movant a party to the proceeding, if no answer in opposition is filed within fifteen days. The filing of a timely notice of intervention makes a State Commission a party to the proceeding.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. 385.713.

Sincerely,



Donald J. Gelinas, Director
Division of Rate Applications

Enclosure

Kansas City Power & Light Company
Docket No. ER99-1005-000
Rate Schedule Designations

<u>Designation</u>	<u>Description/ Effective Date</u>
FERC Electric Tariff, No. 4, First Revised Volume No. 4, Original Sheet Nos. 1-20, (Supersedes FERC Electric Tariff, Original Volume No. 4)	Revised Market-Based Rate Tariff/ March 21, 1999

File copy

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SYDNEY
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December 24, 1998

Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Kansas City Power & Light Company
Docket No. ER99-1045

FILED
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98 DEC 24 AM 11:36
FEDERAL ENERGY
REGULATORY
COMMISSION

Dear Secretary Boergers:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, and Part 35.13 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 35.13, Kansas City Power & Light Company ("KCPL") hereby submits for filing an original and five copies of proposed changes to the terms and conditions under KCPL's market-based rate tariff, FERC Electric Tariff, Original Volume No. 4.¹ KCPL respectfully requests that the Commission allow the changes to take effect within 60 days. The changes would apply to all new transactions negotiated after the effective date.²

¹ Previously designated Rate Schedule FERC No. 120 in Docket No. ER 94-1045-000.

² Concurrent with this filing, KCPL also is filing a three-year update of its market power study originally filed in Docket No. ER94-1045. The updated study confirms that KCPL continues to satisfy the Commission's standards for market rate authority.

KCPL's existing market rate tariff was among the first approved by the Commission. *Kansas City Power & Light Co.*, 72 FERC ¶ 61,218 (1995) (Docket No. ER94-1045). Over the past three years there have been significant changes in bulk power markets and commercial arrangements governing bulk power sales. The proposed changes seek to conform the KCPL tariff to these new commercial arrangements. The new provisions parallel those incorporated into many similar tariffs recently approved by the Commission. These changes include:

- Flexibility to transact using alternative service schedules; and
- Standardizing the commercial terms and conditions used in market based sales including, *inter alia*, scheduling, creditworthiness and force majeure provisions.

As part this filing, KCPL also is submitting a proposed Code of Conduct to govern the relationship between KCPL and affiliates of KCPL. Such a Code was not included as part of KCPL's original submission in Docket No. ER 94-1045-000.

The following information is required by Part 35 of the Commission's regulations:

18 C.F.R. § 35.13(b)(1):

KCPL hereby submits: (1) this explanatory statement; (2) a copy of the revised tariff pages in hard copy and on diskette, including a Code of Conduct (Tab A); (3) a list of customers presently taking service under KCPL's tariff (Tab B); and (4) a form of notice suitable for publication in the *Federal Register* in hard copy and on diskette (Tab C). Because the proposed tariff extensively changes the current tariff, KCPL requests waiver of the requirement to file a "black-lined" version showing the changes to the tariff in hard copy and on disk. *Delmarva Power & Light Co.*, 73 FERC ¶ 61,126 at 61,363 (1995). The "black-lined" version, for all practical purposes, would show that the presently effective tariff has been completely revised by the new tariff.

Honorable David P. Boergers
December 24, 1998
Page 3

18 C.F.R. § 35.13(b)(2):

KCPL proposes that these tariff changes become effective no later than February 24, 1999, 60 days after the date of this filing.

18 C.F.R. § 35.13(b)(3):

These tariff changes have been mailed to KCPL's customers taking service under KCPL's market-based rate tariff. A complete list of the persons to whom this filing has been mailed is attached as Tab B.

18 C.F.R. § 35.13(b)(4):

KCPL has modified the reporting requirements and has modified the terms and conditions for service agreements. KCPL also has proposed a Code of Conduct as part of the proposed changes to KCPL's market-based rate tariff. A description of these changes has been given above.

18 C.F.R. § 35.13(b)(5):

These tariff changes are being made to update KCPL's tariff and terms and conditions since it originally filed for market-based rates with the Commission in 1995. A description for the proposed tariff changes has been given above.

18 C.F.R. § 35.13(b)(6):

No agreements from any other persons or under any contract are required in order to file or implement these tariff rate changes.

18 C.F.R. § 35.13(b)(7):

No cost or expense included herein has been found in any administrative or judicial proceeding to be illegal, duplicative, or an unnecessary cost that is demonstrably the product of discriminatory employment practices.

Honorable David P. Boergers
December 24, 1998
Page 4

18 C.F.R. § 35.13(b)(8):

A form of notice suitable for publication in the *Federal Register*, with a disk, is attached at Tab C.

18 C.F.R. § 35.13(c):

The following persons should be placed on the Commission's service list in this docket and receive service of pleadings, documents or other communications regarding this filing:

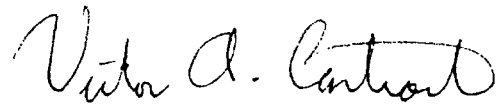
Ron Kite
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Honorable David P. Boergers
December 24, 1998
Page 5

KCPL respectfully requests the Commission accepts these tariff changes without suspension or hearing to become effective no later than February 24, 1999.

Respectfully submitted,

A handwritten signature in cursive script, reading "Victor A. Contract".

Jerry L. Pfeffer
Energy Industry Advisor
Victor A. Contract
Skadden, Arps, Slate, Meagher
& Flom LLP
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FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

AUG 17 1997

Enclosure

Docket Nos. ER94-1045-000 et al.

Kansas City Power & Light Company
Attention: Mr. Ron Kite
Sr. Wholesale Regulatory Analyst
1201 Walnut Street
Post Office Box 418679
Kansas City, Missouri 64141-9679

Dear Mr. Kite:

Please be advised that the rate schedule designations assigned in the above docket(s) are incorrect. The correct designations are shown on the Enclosure.

Sincerely,

P. Alexander
for Donald J. Gelinas, Director
Division of Rate Applications

Kansas City Power & Light Company
Docket Nos. ER94-1045-000 et al.
Rate Schedule Designations

<u>Designation</u>	<u>Description/ Effective Date</u>
FERC Electric Tariff, Original Volume No. 4 (Original Sheet Nos. 1 Through No. 8)	Market Based Tariff/ January 31, 1996

COPY

Kansas City Power & Light Company) Docket Nos. ER94-1045-000,
) ER94-1045-006,
) ER94-1045-002, and
) ER96-391-000

(Issued February 14, 1996)

Upon reconsideration, we now have decided that we should conditionally grant Kansas City authority to sell at market-based rates not subject to refund. (This action is consistent with the action we now take in Northeast Utilities Service Company, Docket No. ER96-496-000, and in other related orders we issue contemporaneously with this order.) Such conditional grant of authority to charge market-based rates not subject to refund is subject to the condition that Kansas City delete, within 15 days of the date of this order, the liability and indemnification provision discussed above from its transmission tariff and

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replace it with the liability and indemnification provision in the pro forma tariffs. If Kansas City agrees to this modification, we will grant waiver of notice to allow Kansas City to begin charging market-based rates not subject to refund immediately upon the submission of its tariff modification.

The Commission orders:

(A) Ordering Paragraph (D) of the January 31, 1996 order in this proceeding is hereby rescinded effective January 31, 1996.

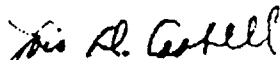
(B) Kansas City's authority to charge market-based rates not subject to refund is hereby granted to become effective on the date Kansas City makes the filing modifying its transmission tariff discussed in the body of this order.

(C) Kansas City's filing modifying its transmission tariff, as discussed in the body of this order, is hereby accepted for filing effective as of the date of filing.

(D) Kansas City is hereby informed that the rate schedule designation for the market-based rates is: Rate Schedule FERC No. 120.

By the Commission.

(S E A L)


Lois D. Cashell,
Secretary.

74 FERC# 61,066

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Elizabeth Anne Moler, Chair;
Vicky A. Bailey, James J. Hocker,
William L. Massey, and Donald P. Santa, Jr.

Kansas City Power & Light Company) Docket Nos. ER94-1045-000,
) ER94-1045-006,
) ER94-1045-002 and
) ER96-391-000

ORDER ACCEPTING COMPLIANCE FILING AND
AMENDMENT TO OPEN ACCESS TRANSMISSION TARIFFS
AND REVOKING MARKET-BASED RATE AUTHORITY

(Issued January 31, 1996)

In this order we consider Kansas City Power & Light Company's (Kansas City) compliance filing in its open access tariff proceeding and an amendment to that tariff that places liability for certain events entirely on the purchaser. As discussed below, we will accept the compliance filing and the amendment, both subject to the outcome of the Open Access NOPR proceeding. 1/ However, we find that Kansas City's amendment does not conform to the non-rate terms and conditions of the pro forma tariff provision covering liability and indemnification proposed in the Open Access NOPR proceeding. Accordingly, Kansas City's authority to charge market-based rates will be revoked.

Background

Kansas City filed a market-based rate proposal together with a transmission tariff providing firm and non-firm point-to-point service. The Commission initiated a hearing on the justness and reasonableness of the proposed tariff. Subsequently, Kansas City filed a network tariff and revised point-to-point tariff. Negotiations among the parties resulted in an offer of settlement that was conditionally approved in an order we issued on September 13, 1995. 2/

- 1/ See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice and Supplemental Notice of Proposed Rulemaking, 60 Fed. Reg. 17,662 (April 7, 1995), IV FERC Stats. & Regs. ¶ 32,514 (1995) (Open Access NOPR).
- 2/ Kansas City Power & Light Company, 72 FERC ¶ 61,218 (1995).

DC-A-48

Docket Nos, ER94-1045-000, ER94-1045-002,
ER94-1045-006 and ER96-391-000

- 2 -

On October 12, 1995, Kansas City submitted its compliance filing. It includes the modifications required by the September 13, 1995 order. Subsequently, on November 17, 1995, in Docket No. ER96-391-000, Kansas City filed an amendment to its transmission tariff to correct an "inadvertent" error in the provision assigning liability for certain events.

Notice and Responses

Notice of the compliance filing was published in the Federal Register, 3/ with comments, protests, or interventions due on or before November 3, 1995. None was filed.

Notice of the amendment was published in the Federal Register, 4/ with comments, protests, or interventions due on or before December 18, 1995. Public Service Electric and Gas Company (PSE&G) and Electric Clearinghouse, Inc. (Clearinghouse) filed motions to intervene in Docket No. ER96-391-000. No substantive issues were raised in their motions to intervene. On December 21, 1995, the Missouri Public Service Commission and the Kansas Corporation Commission (State Commissions) jointly filed a motion for late intervention.

On January 2, 1996, Kansas City answered State Commissions' motion.

Discussion

1. Interventions

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1995), the timely, unopposed motions to intervene serve to make PSE&G and Clearinghouse parties to Docket No. ER96-391-000. We also will grant the State Commissions untimely, unopposed intervention given the interest of the constituencies they represent and the absence of any undue prejudice or delay.

2. Compliance Filing Issues

No party argues that Kansas City's compliance filing fails to meet the Commission's requirements as set forth in its September 13, 1995 order. Having reviewed the filing, we conclude that Kansas City has met the requirements of the September 13, 1995 order.

3/ 60 Fed. Reg. 55,018 (1995).

4/ 60 Fed. Reg. 63,695 (1995).

3. Amendment to Tariff Provision on Liability

Kansas City's amendment makes the transmission customer solely responsible for damages. 5/ The utility contends that it thus seeks to conform the tariffs to the case law governing the scope of a public utility's liability to damage actions by customers or third parties. Kansas City states that the amendment is necessary to correct a prior, unintentional drafting error.

Kansas City notes that the pro forma tariffs contain a liability and indemnification provision with the "infirmity" that Kansas City is seeking to remedy here with its amendment. Kansas City asks that the amendment be accepted, subject to the outcome of the Open Access NOPR proceeding.

State Commissions argue that Kansas City should not be allowed to limit third party actions for ordinary negligence. State Commissions also contend that the Commission lacks jurisdiction to approve liability and indemnification language that preempts state law.

5/ Kansas City's amendment states:

The Company shall not be liable for any economic, indirect or consequential damages, losses, costs or expenses incurred by the Purchaser or a third party that result from the provision of transmission service or ancillary services under this Tariff, including, but not limited to, where such damages result from an interruption of service, a breach of the Company's obligations under this Tariff, the negligence of the Company, or events beyond the control of the Company, such as Acts of God, storms, floods, labor unrest, riots, explosions or accident to machinery or equipment, with the exception being cases of gross negligence or intentional wrongdoing by the Company. Nor shall the Purchaser be liable to the Company for any of the aforementioned damages, losses, costs or expenses, with the exceptions being cases of gross negligence or intentional, wrongdoing by the Purchaser and charges payable by the Purchaser to [Kansas City] for services rendered under the Tariff. The services provided under this Tariff are intended solely for the benefit of the Purchaser and no benefit to any third party is intended by the Company nor should any such benefits be inferred.

Docket Nos. ER94-1045-000, ER94-1045-002,
ER94-1045-006 and ER96-391-000

- 4 -

Kansas City responds that the proposed amendment applies only to damages arising out of Commission-jurisdictional transmission service, and thus would not interfere with State Commissions' authority over retail rates or practices. Further, Kansas City contends that State Commissions themselves have approved retail tariffs similarly limiting Kansas City's liability against third party claims.

We will accept the amendment to become effective as of the date of issuance of this order. Non-rate terms and conditions will be resolved on a generic basis in the Open Access NOPR proceeding, and the non-rate terms and conditions of Kansas City's transmission tariffs will remain subject to the outcome of the Open Access NOPR proceeding. If any case-specific issues need to be litigated after a final rule has issued, the parties may raise them at that time.

4. Market-Based Rates

On September 27, 1995, in American Electric Power Service Corporation, et al., 72 FERC ¶ 61,287 at 62,237 (1995), reh'g denied, 74 FERC ¶ (1996), the Commission stated that market-based rates would be allowed only if the open access transmission tariffs on file: "contain terms and conditions consistent with those in the Open Access NOPR's pro forma tariffs, i.e., contain terms and conditions that substantially conform or are superior to those in the pro forma tariffs." Kansas City's amendment limiting its liability, filed over a month after our September 27 order, does not substantially conform to, and is not superior to, the non-rate terms and conditions in the pro forma tariffs. Accordingly, we cannot conclude that the proposed transmission tariffs, as now amended, mitigate transmission market power. For this reason, Kansas City's market-based rates are hereby revoked as of the date of this order.

The Commission orders:

(A) Kansas City's compliance filing is hereby accepted for filing, subject to the outcome of the Open Access NOPR proceeding as to non-rate terms and conditions.

(B) Kansas City's amendment is hereby accepted for filing, subject to the outcome of the Open Access NOPR proceeding as to non-rate terms and conditions.

(C) Kansas City is hereby advised of the rate schedule designations, which are shown on the attachment to this order.

- 5 -

By the Commission.

Lois D. Cashell,
Secretary.

ATTACHMENT

Kansas City Power & Light Company
Rate Schedule Designations

Designation

Description

Docket No. ER94-1045

- | | |
|---|---|
| (1) FERC Electric Tariff,
Original Volume No. 1,
First Revised Sheet
Nos. 1 - 73 | Flexible Point-to-Point
Transmission Service |
| (2) FERC Electric Tariff,
Original Volume No. 2,
First Revised Sheet
Nos. 1 - 38 | Network Integration
Service |

Docket No. ER96-391

- | | |
|---|-----------------------|
| (3) FERC Electric Tariff,
Original Volume No. 1,
Second Revised Sheet
Nos. 46 - 47 (supersedes
First Revised Sheet Nos.
46 - 47) | Revised Tariff Sheets |
| (4) FERC Electric Tariff,
Original Volume No. 2,
Second Revised Sheet
No. 27 (supersedes First
Revised Sheet No. 27) | Revised Tariff Sheet |

SKADDEN, ARPS, SLATE, MEAGHER & FLOM

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March 15, 1994

Ms. Lois D. Cashell
Secretary
Federal Energy Regulatory Commission
825 North Capitol St., N.E.
Washington, D.C. 20426

Re: Kansas City Power & Light Co., Docket
No. ER94-____-000 -- Filing of Open
Access Transmission Tariff and Re-
quest for Market-Based Rates

Dear Ms. Cashell:

Pursuant to Section 205 of the Federal Power Act and the Commission's regulations promulgated thereunder, Kansas City Power & Light Co. ("KCP&L" or "the Company") submits for filing an original and six copies of: (1) an open access Transmission Service Tariff ("TST") providing firm and non-firm transmission service to eligible utilities (Tab 1); (2) cost of service data supporting the TST's firm transmission service rate (Tab 2); (3) a Generation Sales Service Tariff ("GSS-1 Tariff") governing negotiated firm and non-firm capacity and energy sales (Tab 3); and (4) a market power analysis

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 2

prepared by Dr. Joe Pace of Putnam, Hayes & Bartlett (Tab 4).

The purpose of this filing is twofold. First, KCP&L is filing the TST, an open access transmission tariff, to increase the power supply options available to utilities throughout the MOKAN region and to mitigate any market power KCP&L otherwise might be deemed to possess by virtue of its ownership of transmission facilities. KCP&L is requesting that the Commission waive the 60-day notice period with respect to the TST so that eligible utilities may request transmission service immediately and, accordingly, KCP&L will accept requests for transmission service under the TST immediately, subject, of course, to changes in rates or terms ultimately ordered by the Commission. Second, KCP&L is requesting Commission authorization to sell at market-based rates (a) up to 50 MW of KCP&L system firm capacity and associated energy; (b) all available non-firm energy from KCP&L-owned generation; and (c) up to 700 MW of firm capacity and associated energy from a new generating unit ("Iatan II") to be developed at the Iatan I site by a business

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 3

venture consisting of one or more KCP&L subsidiaries and one or more Black & Veatch subsidiaries ("the Iatan II Venture").

1. The Transmission Service Tariff

a. Summary of Principal Terms and Conditions

The TST provides firm, short-term non-firm, and non-firm hourly transmission service to all eligible utilities. Eligible utilities include investor-owned utilities, municipally owned electric systems, electric cooperatives, qualifying facilities, and independent power producers, but not retail customers.¹

The TST complies, in all material respects, with the criteria established for open access transmission tariffs filed in connection with requests for market-based rates. In addition, the TST addresses the concerns of the Division of Applications, as expressed in letters dated January 15, 1993 and May 28, 1993 in Kansas City Power & Light Co., Docket No. ER93-237-000, and to the legitimate

¹ An eligible utility may take service under the TST by executing a form of service agreement attached to the TST. For non-firm sales, a purchaser would execute a service agreement only once.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 4

concerns raised by the intervenors in that proceeding. Docket No. ER93-237-000 involved a prior transmission service tariff filed by KCP&L, which was withdrawn prior to its acceptance by the Commission.

The TST also has been revised relative to the prior filing so as to provide greater service flexibility. Section 16 of the TST provides that when a purchaser of firm transmission service is not scheduling power at its firm receipt and delivery points, it may use its reservation to schedule non-firm transmission service at different receipt and delivery points at no additional charge. Such an election to substitute receipt and/or delivery points on a non-firm basis will not cause a purchaser to lose its priority at firm receipt and delivery points. In addition, Section 16 also allows the purchaser to request a change in its firm receipt and/or delivery points, subject to a determination of availability. The Company believes that the TST provides greater service flexibility than any transmission service tariff filed to date in support of a request for market-based rates.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 5

The TST also provides that KCP&L will take service under the TST for any of its market-based sales. See TST Sections 10 and 11. KCP&L will be required to sign, and file with this Commission, firm and/or non-firm transmission service agreements for such market-based sales. In addition, market-based sales by the Iatan II Venture will be subject to the Tariff, unless a transmission path not requiring use of KCP&L's bulk transmission system is constructed or obtained by the purchaser.²

Finally, consistent with Commission precedent, the Company will establish an Electronic Bulletin Board with information regarding transmission service availability and the status of requests for transmission service (including KCP&L's requests for service under the TST).

b. Rates

(1) Embedded Cost Rate

The embedded cost rate for firm transmission service is \$1,030 MW/month for service at 161 kV and above and \$1,160 MW/month for service at 34 kV and 69 kV. The

² One utility, St. Joseph Light & Power, has a direct interconnection to the Iatan I facility.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 6

rates for non-firm service (both short-term non-firm and hourly) are "up to" rates that are capped at the firm rate. The daily cap is one-fifth the weekly cap, consistent with Western Systems Power Pool, 55 FERC ¶ 61,099 at 61,321 n.82 (1992), and the hourly cap is one-sixteenth the daily cap, consistent with Appalachian Power Co., 39 FERC ¶ 61,296 at 61,965-66 (1987).

The firm rate is designed using a non-customer-specific "unit cost" approach. Consistent with the Commission's order in Florida Power & Light Co., 66 FERC ¶ 61,227 (1994) and other recent cases, KCP&L has computed a unit rate per MW by dividing its total transmission system revenue requirement by KCP&L's annual system peak (as a proxy for transmission system capability). The resulting per-MW unit rate is assessed on the basis of each customer's contract demands.

In calculating KCP&L's total transmission revenue requirement, KCP&L has sought to conform its cost-of-service analysis to all pertinent Commission rules. Only four cost-of-service issues merit additional explanation here. First, the firm rate includes production costs

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 7

associated with generating capacity used to supply energy losses. Prior to 1983, KCP&L's transmission agreements provided that the purchasers of transmission service would supply all of the losses associated with transmission service. However, this arrangement was difficult to implement for small contract demands due to the difficulty of tracking such losses. As a result, KCP&L's transmission contracts were changed to require KCP&L to provide the losses. KCP&L's customers agreed to this arrangement as part of a negotiated settlement of Docket No. ER83-665-000.

KCP&L is aware of the Director's recent letter issued in Philadelphia Electric Co., Docket No. ER94-168-000 (dated Jan. 14, 1994), which questioned a transmission service agreement not allowing the customer to provide its own losses. The Director objected to this provision based on PECO's high capacity costs and the fact that the loss-related production charge represented nearly one-third of the entire transmission rate.

Here, however, KCP&L has relatively low-cost generating capacity and KCP&L's rationale for restricting the

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 8

provision of losses by the customer is grounded in historical operating experience. Moreover, KCP&L is not aware that any of its customers objects to the current practice. However, to the extent that a KCP&L customer does object to this provision, KCP&L would be willing to negotiate an arrangement allowing the customer to supply its own losses, along with satisfactory arrangements for accounting for such losses. If such an alternative arrangement was reached, it would, of course, require a filing with this Commission and a reduced firm transmission rate.

Second, the firm rate includes the cost of transmission facilities presently booked as part of "distribution" substations. KCP&L books a substation as distribution or transmission as prescribed by the Uniform System of Accounts. However, 50 out of 130 of KCP&L's "distribution" substations include facilities used to provide transmission service (i.e., 161 kV breakers and associated equipment). KCP&L calculated the investment in those transmission facilities and included the costs in the firm transmission rate. KCP&L has provided an explana-

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 9

tion of the methodology used and the necessary workpapers in Tab 2.

Third, KCP&L has included a separate \$10 scheduling and accounting charge. The charge is developed on the basis of costs booked to Account No. 556, System Control and Load Dispatching, which costs are not included in the firm transmission rate. The \$10 scheduling charge is calculated by allocating a portion of Account No. 556 charges to KCP&L's transmission customer class (on a 12 CP basis), dividing the resulting revenue requirement by 365 and, then, dividing further by the average schedules per day. The \$10 charge provided in the TST is actually below the charge that the cost of service calculation would permit (which is \$15.33).

Fourth, KCP&L has used a 12% cost of equity in computing its authorized rate of return. KCP&L based this rate on the average of the returns on equity produced by the Discounted Cash Flow ("DCF") method and the Risk Premium method. The DCF method shows that investors will require an 11.1% return on equity and the Risk Premium method shows that investors will require a 12.05%

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 10

return on equity. A conservative average of the two methods produces a required return on equity of 11.5%. After factoring in a flotation adjustment (3%) and the effects of market pressure (5%), the resulting cost of equity is 12.4%. As indicated, KCP&L's firm rate is supported using only a 12% cost of equity.

(2) Other Rates

The TST also permits KCP&L to assess, in circumstances permitted by Commission precedent, the cost of Network Upgrades, Direct Assignment Facilities, Stranded Investment and/or Opportunity Costs. KCP&L does not agree with all the Commission's transmission pricing policies, but the TST seeks to adhere to each of them to permit the expeditious acceptance of the TST.

2. The Request for Market-Based Rates

a. KCP&L System Capacity and Energy Sales

KCP&L is requesting authority to sell, on a negotiated basis (1) 50 MW of firm capacity, and (2) all available non-firm energy generated by KCP&L-owned resources. KCP&L will market such capacity and energy under the GSS-1 Tariff. The GSS-1 Tariff is similar to the market-

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 11

based sales tariff approved in Louisville Gas & Electric Co., 62 FERC ¶ 61,016 (1993).³

KCP&L's request for market-based rate authority for system sales is supported by a market power analysis prepared by Dr. Pace. Consistent with Commission precedent, Dr. Pace assessed whether KCP&L (1) has market power in generation markets, (2) has market power resulting from the ownership of transmission facilities, and (3) has market power due to the control of other barriers to entry. See Entergy Services, Inc., 58 FERC ¶ 61,234 (1992).⁴

First, as to generation markets, Dr. Pace analyzed short-run firm capacity and non-firm energy markets for each utility interconnected with KCP&L (the "first tier"). To calculate short-run capacity market shares, Dr. Pace examined uncommitted capacity. For KCP&L, he

³ Purchasers under the GSS-1 Tariff would execute the form of service agreements attached to the Tariff. For non-firm sales, a purchaser would execute a service agreement only once.

⁴ KCP&L recognizes that under Commission precedent it will be required to update this market analysis every three years.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 12

used 50 MW (which is more than KCP&L projects it will have available after 1995, given its installed generation plus purchased power) since the company is seeking authority to sell up to 50 MW at market-based rates. For other utilities in this market, he used their own estimates of available capacity resources, or the difference between their forecast capacity resources and forecast summer peak load, plus 18% for reserves. The highest uncommitted capacity market share for KCP&L in any geographic market, after recognizing the TST, was 5.4%.⁵

Dr. Pace also calculated market shares for non-firm energy markets. Consistent with Commission precedent (see LG&E, 62 FERC ¶ 61,016), Dr. Pace examined installed generating capacity market shares in addition to the uncommitted capacity market shares in order to assess non-firm energy markets. The resulting analysis showed that in the post-TST markets, KCP&L possesses at most a 8.3% installed capacity market share.

⁵ Dr. Pace calculated market shares for each market with and without the effect of the TST. This "before and after" analysis demonstrates the TST's positive effect on generation markets.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 13

Finally, Dr. Pace concluded that (a) the filing of the TST fully mitigates any potential that KCP&L could exert market power through control of transmission facilities⁶ and (b) that KCP&L does not control any other significant barriers to entry.

b. Unit Sales From Iatan II

(1) Background

KCP&L also is requesting that the Commission approve market-based sales from a new generating unit to be constructed at the site of the existing Iatan I coal-fired generating plant. The new unit Iatan II, is planned to be a baseload, coal-fired unit with a rated capacity of 700 MW. The construction lead time for Iatan II is estimated to be six years, which means Iatan II could be operational in the year 2000, at the earliest.

⁶ As indicated above, KCP&L will provide eligible utilities access to its bulk transmission facilities and will undertake to construct new facilities or upgrade existing facilities in order to satisfy a request for service. In addition, KCP&L will use its rights to certain jointly owned transmission lines to provide access to eligible utilities, consistent with the terms of the TST and the Agreements governing the joint use of such lines. See TST, Appendix A.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 14

Iatan II will be owned in whole, or in part, by a partnership or other business arrangement (the "Iatan II Venture")⁷ likely to be comprised of (1) one or more indirect wholly owned subsidiaries of KCP&L and (2) one or more wholly owned subsidiaries of Black & Veatch.⁸ The exact form of business arrangement, or the ownership shares thereof, have not been finally determined.⁹ In

⁷ It is anticipated that the Iatan II Venture will become an Exempt Wholesale Generator ("EWG"). KCP&L will seek all necessary state commission approvals for the transfer from KCP&L to the Iatan II Venture of common facilities at the Iatan site.

⁸ Black & Veatch is a Missouri partnership providing construction, design and engineering services to utility and industrial businesses.

⁹ The fact that a business arrangement for the Iatan II Venture has not yet been finally agreed upon should not affect the Commission's ability to grant up-front approval for market-based sales from Iatan II. In analogous circumstances, the Commission routinely grants applications for qualifying facility ("QF") status under PURPA, despite the fact that ownership of the QF has not yet been determined. In such cases, Commission approval is granted on the basis of the facts presented and any material change in such facts would require a refiling. Here, the Commission can approve market-based sales from Iatan II on the basis of the facts stated herein with respect to the ownership of the Iatan II Venture, and the Venture's relationship with KCP&L, and when a business unit is officially formed to market Iatan (continued...)

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 15

addition, the Iatan II Venture may own Iatan II in its entirety and thereby be entitled to its entire generating capability, or it may own a lesser share (with other participants owing the remaining share(s)) and be entitled to a proportionately lesser share of its generating capability.¹⁰

It is expected that KCP&L will provide operating and maintenance services to the Iatan II Venture.¹¹ In addition, in the future KCP&L may be asked by a potential

⁹(...continued)

II capacity, KCP&L will make an informational filing with respect thereto.

¹⁰ The Iatan II Venture will seek to sell Iatan II's output through various negotiated power sales agreements. However, it is possible that one or more utilities will seek to acquire a share of Iatan II's generating capability through purchasing an equity interest in Iatan II. To the extent any utility purchases such an equity interest, and obtains a corresponding share of Iatan II's generating capability, the Iatan II Venture will market the remaining share of Iatan II's generating capability to other entities. KCP&L is only requesting market-rate approval for sales by the Iatan II Venture, not sales by any other person having an equity interest in Iatan II.

¹¹ A proper allocation of operation and maintenance expenses between the Iatan II unit and the Iatan I unit will be made pursuant to applicable rules.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 16

purchaser to provide certain ancillary services, such as back-up power, associated with a unit power sale from Iatan II. To the extent KCP&L is so asked, and agrees to provide, a particular ancillary service associated with such a unit power sale, KCP&L will make clear that it is willing to provide such services, on the same general terms, conditions and rates, to the potential purchaser without regard to whether the purchaser ultimately selects Iatan II as its new source of capacity and energy. This commitment will ensure that the Iatan II Venture's indirect affiliation with KCP&L will not provide it an undue advantage in marketing Iatan II capacity and energy.¹² It should be noted that the TST states that ancillary services will be provided on a nondiscriminatory basis. Any jurisdictional agreement to provide ancillary services would be filed with this Commission as a rate schedule to the extent the service was not already covered in an existing rate schedule.

¹² For scheduling services, this commitment would, of course, apply only to competing generating units included within KCP&L's control area.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 17

KCP&L's request for market-based sales from Iatan II is further conditioned on the following commitments: (1) that any such market-based sales will not be made to KCP&L or any of its affiliates, to Black & Veatch or any of its affiliates or to any other participant (or an affiliate thereof) in the Iatan II Venture, and (2) that any such market-based sales will not be made to any utility, or any of its affiliates, that secures an equity interest in Iatan II. If material conditions change, such as a desire to sell, on a market basis, Iatan II power to KCP&L or any other person having an equity interest in Iatan II or the Iatan II Venture, KCP&L (or, more likely, the Iatan II Venture) will so notify the Commission and request any appropriate approvals from the Commission.

Finally, it is important that the Commission understand the reason why KCP&L is seeking up-front approval for market-based sales from Iatan II: it is to avoid the result reached in TECO Power Services Corp., 52 FERC ¶ 61,191 (1990), Nevada Sun-Peak Limited Partnership, 54 FERC ¶ 61,264 (1991), and Entergy Services, Inc., 59 FERC

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 18

¶ 61,369 (1992). In TECO and Nevada Sun-Peak, the applicants sought Commission approval of market-based rates after the signing of a power sales agreement. Upon review of the process leading up to the signing of these agreements, the Commission denied market-rate approval, concluding there was not a sufficient robustness of competing bids (among other considerations).

Here, sales by the Iatan II Venture may well be the result of an informal, negotiated process in a competitive market whereby the purchaser evaluates whether Iatan II is the most economic and reliable alternative to meet its long-run power supply needs. The states in the MOKAN region have not implemented formal bidding programs for utilities procuring new capacity. KCP&L's request for up-front approval of sales from Iatan II will permit the Commission to assess the competitiveness of the market before a power sale agreement is signed and eliminate the need for "after-the-fact" review.

This up-front approval also will avoid the factual scenario presented in Entergy Services. There, Entergy Power, Inc. ("EPI") negotiated and signed two power sales

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 19

agreements, one prior to the filing of, and one during Commission proceedings to approve, an open access transmission tariff filed by the Entergy System. EPI did not disclose these agreements during the pendency of the proceedings to approve the tariff. When the agreements were later filed, the Commission rejected them, holding that Entergy's transmission tariff could not have mitigated Entergy's market power because it was filed after one agreement had already been signed. The other agreement was rejected because it was signed before the tariff had been modified in critical respects by the Commission (such as requiring a single-system tariff, rather than four separate tariffs).

Here, by contrast, KCP&L is providing full disclosure of the Iatan II Venture's intent to negotiate power sales from the Iatan II unit and KCP&L is filing its TST before any substantive negotiations commence. At present, prospective purchasers of Iatan II capacity have received only general information regarding the Iatan II Venture's intent to build and market Iatan II's output

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 20

and Iatan II's forecast price per KWH.¹³ Prospective purchasers also have been informed that KCP&L will file an open access TST which will provide wheeling for competing sources of supply that would use the KCP&L transmission network and that the Iatan II Venture cannot engage in any substantive negotiations before the TST is filed. The prospective purchasers have been further informed that any power sales made by the Iatan II Venture would require use of the TST unless, in the alternative, the purchaser were to construct or obtain another direct path to Iatan II.

Given the fact that the TST has now been filed with the Commission and that KCP&L is willing today to accept requests for service under the TST, the Iatan II Venture will now offer to begin substantive negotiations regarding sales from Iatan II with any potential purchaser that wishes to do so. Because of the time ordinarily required to complete such negotiations, however, the Iatan II

¹³ This information has been provided by representatives of KLT Power, a wholly-owned, unregulated subsidiary of KCP&L, and representatives of Black & Veatch.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 21

Venture does not expect to be in a position to sign a power sales agreement prior to acceptance by the Commission of the TST for filing or action on the request for market-rate authority regarding sales from Iatan II. In the unlikely event that such a situation arises, however, KCP&L will notify the Commission of the signing of the agreement and provide a copy thereof to the Commission as an amendment to the filing in this proceeding.

(2) Market Study

Dr. Pace assessed whether the Iatan II Venture could possess market power (1) as a dominant seller of generation in the relevant market(s) (either in its own right or as an entity affiliated with KCP&L), (2) through KCP&L's ownership and control of transmission facilities, given that the Iatan II Venture will have, as a co-owner, an indirect affiliate(s) of KCP&L, and (3) through the control of other barriers to entry.

Dr. Pace analyzed long-run capacity markets in assessing whether purchasers would have competitive options to purchasing Iatan II capacity. The reason Iatan II capacity was placed in long-run markets is that

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 22

Iatan II is not an existing unit nor is it under construction. Iatan II will not be operational until the year 2000, even assuming that engineering, procurement and construction commenced this year. Thus, Iatan II cannot compete with uncommitted capacity for sales in short-run markets.

In long-run markets, potential barriers to entry are considered to be the most important factor. Dr. Pace's analysis shows that neither KCP&L nor its affiliates (nor Black & Veatch or its affiliates) control substantial barriers to entry. As indicated above, KCP&L's TST will permit a resource competing with Iatan II to obtain transmission from KCP&L (to the extent such transmission is needed) on the same terms and conditions that the Iatan II Venture would receive. In addition, there are no other substantial barriers to entry in long-run generation markets. The data shows that a purchaser of capacity in the long-run can expect robust responses to any solicitation for power and that this wide availability of generation alternatives exists whether or not a purchaser actually issues an RFP.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 23

Out of an abundance of caution, however, Dr. Pace also undertook an examination of the relevant market shares if the capacity from the Iatan II Venture (700 MW) was considered to be available in the short run and if the market share analysis was performed as it was done in Entergy Services, Inc., 58 FERC ¶ 61,234 (1992). The results show that, even under this analysis (which neither Dr. Pace nor the Company deems appropriate), KCP&L has no more than a 16.58% market share in any relevant market. The 700 MW of Iatan II capacity was placed in the short-run market only to address the unlikely possibility that the analysis undertaken in Entergy might be deemed applicable here.

In Entergy, EPI requested authority to sell up to 1500 MW of unit power at negotiated, market rates. At the time of the filing, EPI possessed only 709 MW of capacity, but the possibility existed that EPI might obtain an additional 791 MW of capacity in the short-run through purchase or other acquisition. Accordingly, the Commission assumed that 1500 MW of capacity was available

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 24

to EPI in the short-run, and thus the entire 1500 MW was used in calculating EPI's "market share."

Here, however, the Iatan II Venture does not own any existing capacity. It has no present intention of acquiring any existing capacity and is not requesting authority to sell any such capacity. Iatan II is not under construction and Iatan II cannot be operational prior to 2000. In fact, KCP&L will commit that sales of power from Iatan II will not commence before the year 2000.¹⁴ Thus, there is no basis upon which to conclude that the 700 MW of Iatan II capacity should be considered in short-run markets.¹⁵

¹⁴ In the unlikely event that Iatan II construction proceeded faster than planned, and the unit could be operational prior to 2000, KCP&L would so notify the Commission. However, in any event, the sales from Iatan II would not commence in the "short run" (i.e., in or prior to 1998).

¹⁵ To do so not only would erroneously inflate KCP&L's short-run market share by adding capacity that is available only in the long-run, it would do so in a one-sided fashion: KCP&L's neighboring utilities could build a new unit as well, but their short-run market shares would not reflect this capability. Finally, in future cases, such an analysis would penalize a utility with a large share of short-run capacity from marketing new generating resources

(continued...)

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 25

3. Relief Requested

The Commission should accept the TST and GSS-1 Tariff without condition, suspension or modification. The Commission should also grant KCP&L's request for up-front approval for the Iatan II Venture to make market-based sales from the Iatan II unit.

The TST should be accepted as an initial rate, given that it does not "change," "supersede" or "supplement" any existing rate. KCP&L recognizes, however, that the Commission may deem the TST to be a "change in rate," given that KCP&L presently provides transmission service to various customers. See American Electric Power Serv. Corp., 64 FERC ¶ 61,279 (1993). KCP&L does not object to the Commission treating the TST as a "change in rate" so long as the Commission accepts the TST for filing without suspension, condition or the convening of an evidentiary hearing. It should be noted, however, that to the extent the TST firm rate is viewed as a change in rate, it

¹⁵(...continued)
available in the long-run, potentially increasing its market shares beyond acceptable competitive levels and thereby frustrating sales from such new resources.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 26

represents a significant rate decrease from the rates accepted in Docket No. ER86-701-000.

If, however, an evidentiary hearing is ordered, KCP&L requests that the Commission limit its scope. KCP&L has sought to conform, in all material respects, its TST to the transmission service tariffs previously found to mitigate market power with respect to transmission facilities. KCP&L also has sought to conform its cost-of-service development to applicable Commission rules and precedents. If the Commission nevertheless finds that the rate for firm service under the TST has not adequately been supported, and determines that a hearing should be held with respect thereto, KCP&L requests that the Commission restrict the hearing to rate and cost-of-service issues. Most issues relating to the terms and conditions of service are matters of policy that can be disposed of summarily by the Commission prior to setting any rate matters for hearing, and KCP&L requests that the Commission do so here. KCP&L wishes to avoid the situation confronted by applicants and intervenors in other cases, where a hearing on transmission

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 27

rates has been ordered, but the applicants and/or intervenors immediately thereafter seek clarification as to whether the hearing should include issues relating to the terms and conditions of service. See American Electric Power Serv. Corp., Docket No. ER93-540-000; Illinois Power Co., Docket No. ER92-809-000.

Finally, the TST should be accepted for filing immediately, with the 60-day notice period waived, so that eligible utilities can begin taking advantage of the increased competitive options immediately. As indicated, KCP&L will begin accepting requests for service under the TST immediately. The GSS-1 Tariff should be accepted for filing within 60 days hereof. KCP&L also requests that the Commission waive any other requirements of the Commission's regulations as necessary to permit the TST and GSS-1 Tariff to be accepted for filing in the manner proposed herein.

4. Information Required By Part 35

The following information would be required under the Commission's abbreviated filing requirements if the TST were a change in rate. See Section 35.13(a)(2).

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 28

a. List of Documents Submitted With Rate Change --

The following documents are being submitted with the TST: a form of Federal Register notice, a form of service agreement for firm and non-firm transmission service, and cost of service information supporting the firm transmission service rate. Submitted with the GSS-1 Tariff are a form service agreement for firm and non-firm power sales and a market power analysis prepared by Dr. Joe Pace of Putnam, Hayes & Bartlett.

b. Proposed Effective Date for Rate Change --

KCP&L proposes that the TST take effect immediately, but in no event following more than a one day suspension, and that the GSS-1 Tariff take effect within 60 days hereof.

c. Persons To Whom the Rate Change Has Been Mailed

-- This filing has been mailed to all utilities directly interconnected with KCP&L and to the Kansas and Missouri state commissions.

d. Brief Description of Rate Change -- The rates for the TST and the material terms and conditions of the TST and the GSS-1 Tariff have been described previously in this letter.

Ms. Lois D. Cashell
Secretary
March 15, 1994
Page 29

e. Reasons for the Rate Change -- The TST and the GSS-1 Tariff are being filed to provide KCP&L's wholesale customers increased transmission service and power sales options and to provide KCP&L the ability to negotiate system capacity and energy sales on a market basis and for the Iatan II Venture to negotiate Iatan II capacity and energy sales on a market basis.

f. Showing that All Requisite Agreement Has Been Obtained -- No agreements are necessary to file the tariffs.

g. Costs Adjudged Illegal, Duplicative or Unnecessary -- None of the costs reflected in the TST have been adjudged illegal, duplicative or unnecessary costs that are demonstrably the product of discriminatory employment practices.

h. Form of Notice -- A draft Federal Register notice is attached.