

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Application of Kansas      )  
City Power & Light Company to Make      )      Docket No. 18-KCPE-480-RTS  
Certain Changes in Its Charges for Electric      )  
Service.      )

**ORDER GRANTING AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS,  
MAGELLAN PIPELINE COMPANY, L.P., AND PETROLEUM MARKETERS AND  
CONVENIENCE ASSOCIATION OF KANSAS, INC.'S  
PETITION FOR RECONSIDERATION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having reviewed the pleadings and record, the Commission finds and concludes as follows:

1. On May 1, 2018, Kansas City Power & Light Company (KCP&L) filed for a \$32.9 million revenue increase, including property tax rebasing.<sup>1</sup> As a result of its merger with Westar Energy, Inc., KCP&L has reduced its requested revenue increase to \$22.6 million.<sup>2</sup>

2. On August 21, 2018, American Fuel & Petrochemical Manufacturers (AFPM), Magellan Pipeline Company, L.P. (Magellan), and Petroleum Marketers and Convenience Association of Kansas, Inc. (PMCA) filed a Petition to Intervene.

3. AFPM is a nonprofit trade association of over 300 members that purchase and process crude oil.<sup>3</sup> AFPM states two of its members, HollyFrontier El Dorado Refining LLC and Flint Hills Resources, LLC, own or use two terminals in KCP&L's service territory and purchase

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<sup>1</sup> Application, May 1, 2018, ¶ 3.

<sup>2</sup> Supplemental Direct Testimony of Darrin R. Ives, June 26, 2018, pp. 4-5.

<sup>3</sup> Petition for Intervention, Aug. 21, 2018, ¶¶ 1-2.

electricity from Westar Energy (Westar).<sup>4</sup> PMCA is also a nonprofit trade association of hundreds of independently-owned Kansas energy marketing and retail businesses, and claims those unnamed members have legal rights, duties, privileges, or other legal interests that will be substantially affected by this Docket.<sup>5</sup>

4. Magellan and its affiliates own and operate a pipeline system and storage facilities.<sup>6</sup> Magellan claims it is a KCP&L ratepayer that will be substantially affected by this Docket.<sup>7</sup>

5. On August 30, 2018, KCP&L filed its Response to Petition for Intervention, opposing the intervention of both AFPM and PMCA, and recommending Magellan be forced to identify its specific Kansas facilities before it is allowed to intervene.<sup>8</sup> Specifically, KCP&L notes that it has been unable to confirm accounts for either HollyFrontier El Dorado Refining LLC and Flint Hills Resources, LLC, the only members AFPM alleges are KCP&L customers.<sup>9</sup> Similarly, KCP&L explains PMCA has not identified any members who are customers of KCP&L.<sup>10</sup> With regard to Magellan, KCP&L seeks confirmation that the two accounts in Olathe and the one account in Paola are the customers whose interest it intends to represent if allowed to intervene.<sup>11</sup>

6. On September 20, 2018, the Commission issued its Order Denying Intervention to American Fuel & Petrochemical Manufacturers, Magellan Pipeline Company, L.P. and Petroleum Marketers and Convenience Association of Kansas, Inc. (Order Denying Intervention). Part of the

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<sup>4</sup> *Id.*, ¶¶ 3-4.

<sup>5</sup> *Id.*, ¶ 6.

<sup>6</sup> *Id.*, ¶ 5.

<sup>7</sup> *Id.*

<sup>8</sup> Response of Kansas City Power & Light to Petition for Intervention, Aug. 30, 2018, ¶ 5.

<sup>9</sup> *Id.*, ¶ 7.

<sup>10</sup> *Id.*, ¶ 13.

<sup>11</sup> *Id.*, ¶ 12.

Commission's rationale was that AFPM, PMCA, and Magellan have not responded to KCP&L's concerns.<sup>12</sup>

7. On September 21, 2018, AFPM, Magellan, and PMCA filed their Petition for Reconsideration, explaining that they had in fact responded to KCP&L's concerns by filing a Reply to Kansas City Power & Light's Response to Petition for Intervention on September 10, 2018.<sup>13</sup> As evidence of their filing, AFPM, Magellan, and PMCA attached their Reply as Exhibit 1 to their Petition for Reconsideration. The certificate of service attached to their Reply shows they attempted to serve Dustin L. Kirk, who was replaced as Prehearing Officer on August 28, 2018.<sup>14</sup> On September 6, 2018, Brian G. Fedotin was designated as the new Prehearing Officer.<sup>15</sup> The Reply was never served on the current Prehearing Officer.

8. In its Order Denying Intervention, the Commission found AFPM, PMCA, and Magellan are required to identify with specificity which of its members it claims are KCP&L customers, and directed: (1) AFPM to demonstrate that HollyFrontier El Dorado Refining LLC and Flint Hills Resources, LLC, are currently customers of KCP&L, since KCP&L claims neither entity has an account with KCP&L; and (2) Magellan to confirm if it seeks to intervene based on accounts that KCP&L speculates it may have in Olathe and Paola.<sup>16</sup> The Commission also noted PMCA has not identified any members who are customers of KCP&L.<sup>17</sup>

9. In their Reply, AFPM identifies its member Phillips 66 Pipeline, LLC as a KCP&L ratepayer.<sup>18</sup> PMCA identifies two of its members, Taylor Oil, Inc. and McAnany Oil Company,

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<sup>12</sup> Order Denying Intervention to American Fuel & Petrochemical Manufacturers, Magellan Pipeline Company, L.P. and Petroleum Marketers and Convenience Association of Kansas, Inc., Sept. 20, 2018, ¶ 6.

<sup>13</sup> Petition for Reconsideration, Sept. 21, 2018, ¶ 4.

<sup>14</sup> Order Amending Procedural Schedule; Designating New Prehearing Officer, Sept. 6, 2018, ¶ 5.

<sup>15</sup> *Id.*, ¶ 7.

<sup>16</sup> Order Denying Intervention, ¶ 11.

<sup>17</sup> *Id.*, ¶ 9.

<sup>18</sup> Petition for Reconsideration, ¶ 5.

Inc., as KCP&L ratepayers.<sup>19</sup> Magellan confirms that it seeks to intervene based on its Pipeline's two accounts in Olathe and one account in Paola.<sup>20</sup>

10. To qualify for intervention, a petition must: (1) be in writing; (2) state facts demonstrating that the petitioner's legal rights, duties, privileges, and immunities, or other legal interests may be substantially affected by the proceeding, or that the petitioner qualifies as an intervenor under any provision of law; and (3) not impair the interest of justice and the orderly and prompt conduct of the proceedings.<sup>21</sup> The Commission has broad discretion in deciding whether to grant a petition for intervention.<sup>22</sup> At any time during a proceeding, the Commission may impose limitations on an intervenor's participation.<sup>23</sup>

11. The Commission finds and concludes AFPM, PMCA, and Magellan have met the requirements of K.A.R. 82-1-225 and K.S.A. 77-521 and should be granted intervention in this Docket. AFPM, PMCA, and Magellan will be added to the mailing list. Service of electronic notices, pleadings, communications, and correspondence should be delivered to counsel of record as follows:

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12. Pursuant to K.S.A. 77-521(c)(3), the Commission finds it appropriate to condition the intervention of AFPM, PMCA, and Magellan on requiring them to combine their activities in

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> K.S.A. 77-521(b); K.A.R. 82-1-225(b).

<sup>22</sup> K.S.A. 77-521; K.A.R. 82-1-225.

<sup>23</sup> K.S.A. 77-521(c).

this Docket, including their presentations of evidence, argument, cross-examination, discovery, and other participation in the proceedings. The Commission notes that Lathrop & Gage is counsel for all three entities, therefore, combining their participation is in the interest of judicial economy and combining their activities in the Docket will not prejudice the intervenors.

**THEREFORE, THE COMMISSION ORDERS:**

A. The Petition for Reconsideration filed by American Fuel & Petrochemical Manufacturers, Magellan Pipeline Company, L.P., and Petroleum Marketers and Convenience Association of Kansas, Inc. is granted. AFPM, Magellan, and PMCA are granted intervention conditioned upon combining their activities in the Docket.

B. This order is procedural and constitutes non-final agency action.<sup>24</sup> Any request for review of this action shall be in accordance with K.S.A. 77-608 and K.S.A. 77-613. Lynn M. Retz, Secretary to the Commission, is designated by the Commission to receive service of a petition for judicial review.<sup>25</sup>

C. The Commission retains jurisdiction over the subject matter and the parties to enter further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 10/04/2018



Lynn M. Retz  
Secretary to the Commission

BGF

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<sup>24</sup> K.S.A. 77-607(b)(2).

<sup>25</sup> K.S.A. 77-613(e).

## CERTIFICATE OF SERVICE

18-KCPE-480-RTS

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 10/04/2018.

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