

4. On August 28-29, 2016, the Commission held an evidentiary hearing in this proceeding. Following the evidentiary hearing, all of the parties submitted Post-Hearing Briefs.⁵

5. On September 13, 2016, the Commission issued an Order denying KCP&L's Application for approval of its CCN project and its proposed EV charging station tariff (Order).⁶

6. On September 28, 2016, KCP&L filed its Petition for Reconsideration (PFR).⁷ KCP&L "requests reconsideration of only the part of the Order that fails to approve a tariff establishing the rate to be charged to drivers for the electricity provided through the charging stations."⁸ KCP&L requests that the Commission approve the tariff as proposed in its Application because it prefers to have "a Commission-approved tariff in place to establish the per kWh rate to be charged to EV drivers for electricity obtained at the stations."⁹

7. In its PFR, KCP&L also offers an alternative proposal should the Commission not approve the Schedule CCN tariff.¹⁰ KCP&L would provide the service as an unregulated operation, and "[i]n that instance, electricity supplied by KCP&L to the charging stations would be provided at existing tariffed rates and paid for either by the host site (as occurs today) or by KCP&L's unregulated operations, and time-based charges, if any, for access to the Kansas EV charging stations (i.e., X\$ per hour) would be between the station and the EV driver as part of the unregulated operations of KCP&L."¹¹

⁵ Initial Post-Hearing Brief of Kansas City Power & Light Company (July 15, 2016); Post-Hearing Brief of the Citizens' Utility Ratepayer Board (July 29, 2016); Post-Hearing Brief of Commission Staff (July 29, 2016); Post-Hearing Brief of ChargePoint, Inc. (July 29, 2016); Post-Hearing Reply Brief of Kansas City Power & Light Company (August 5, 2016).

⁶ See Order Denying KCP&L's Application for Approval of its Clean Charge Network Project and Electric Vehicle Charging Station Tariff, Ordering Clause A (September 13, 2016).

⁷ Kansas City Power & Light Company Petition for Reconsideration (September 28, 2016).

⁸ PFR, p. 1.

⁹ *Id.* at ¶ 4.

¹⁰ *Id.* at ¶ 8.

¹¹ *Id.*

8. On September 29, 2016, KCP&L filed an Errata to its PFR.¹² KCP&L's Errata to its PFR contained Exhibit A, KCP&L's Public Electric Vehicle Charging Station Service tariff (Schedule CCN), which was inadvertently omitted.¹³

9. On October 3, 2016, Staff filed its Response to Petition for Reconsideration of KCP&L.¹⁴ Staff prefers approval of KCP&L's proposed CCN tariff in that Staff "believes the tariff is more likely to provide KCP&L and the Commission with meaningful usage and revenue information, because it would allow KCP&L to charge EV drivers for the service."¹⁵

II. CURB's Response

10. CURB recommends that the Commission deny KCP&L's Public Electric Vehicle Charging Station Service tariff, Schedule CCN, as requested in its PFR and in the alternative have KCP&L provide the service as an unregulated operation. CURB believes this resolution of KCP&L's PFR is entirely proper because: a.) the Commission has already determined the appropriate cost recovery alternative for KCP&L's CCN program; and b.) providing the CCN program as an unregulated service alleviates pertinent concerns which the Commission raised in its Order.

a. The Commission has Already Determined the Appropriate Cost Recovery Alternative for KCP&L's CCN program.

11. The Commission clearly stated in its Order the appropriate cost recovery method for KCP&L's CCN program as follows:

The Commission denies KCP&L's request to have ratepayers finance the CCN. The evidence demonstrates the CCN is not necessary. To the contrary, private businesses are already installing stations to incentivize customers, employees, and guests. **Rather than burden the ratepayers, the Commission believes either**

¹² See Kansas City Power & Light Company's Errata to Petition for Reconsideration Filed on September 28, 2016, p. 1 (September 29, 2016).

¹³ *Id.*

¹⁴ Commission Staff's Response to Petition for Reconsideration of KCP&L (October 3, 2016).

¹⁵ *Id.* at ¶ 7.

KCP&L shareholders or private businesses should bear the cost of building and operating EV charging stations, as they are the beneficiaries of increased EV ownership. Relying on the private sector to finance an EV network also eliminates concerns of cross-subsidization.¹⁶

12. In its PFR, KCP&L proposes to provide the CCN program as an unregulated operation if the Commission does not approve Schedule CCN and denies its petition for reconsideration.¹⁷ CURB believes that KCP&L's alternative proposal, to provide the CCN program as an unregulated operation, best meets the Commission's preferred method for cost recovery stated in the Order. This cost recovery alternative is the most reasonable because it protects the ratepayers and puts the costs on KCP&L's shareholders and/or private businesses who are the beneficiaries of EV ownership.

b. Providing the CCN Program as an Unregulated Service Alleviates Pertinent Concerns which the Commission Raised in its Order

13. KCP&L argues in its PFR that "[t]he Order did not make a specific finding regarding the reasonableness of the per kWh rates to be paid by EV drivers for electricity obtained through the EV charging stations as proposed in Schedule CCN."¹⁸ Moreover, KCP&L argues that the Order did not "address the fact that KCP&L would still need approved rates to charge drivers for electricity supplied to their EVs through the stations even though the charging station capital and O&M costs would not be included in bases rates of all customers."¹⁹ However, the Findings in the Order make clear that KCP&L's assertions are simply not the case. Indeed, the Commission's Order, did specifically address its preferred cost-recovery method for KCP&L's CCN program. Furthermore, KCP&L does not need approved rates to recover costs of its CCN program. The Commission denied KCP&L's Application for approval of its CCN

¹⁶ Order, ¶ 35.

¹⁷ PFR, ¶ 8.

¹⁸ PFR, ¶ 3.

¹⁹ *Id.*

project and EV charging station tariff for multiple reasons, including the Commission’s finding that “[r]elying on the private sector to finance an EV network also eliminates concerns of cross-subsidization.”²⁰ KCP&L seems to ignore this fact in its PFR. Thus the plain language of the Order shows that the Commission does not believe that tariffed regulation of KCP&L’s CCN is in the public’s interest. Most importantly, KCP&L provides no basis in its PFR for the Commission to change its decision.

14. KCP&L states in its PFR that “[a]s the stations continue to operate in that manner, more data may become available over time that could allow the Company to present the EV charging station program again to the Commission for approval as part of its regulated service offerings.”²¹ That argument begs the question of whether or not the CCN is presently necessary to serve the public interest. In regards to this issue the Commission unambiguously concluded in its Order that the CCN was not necessary to provide sufficient and efficient service.²² The Commission also found in its Order that KCP&L had not met its burden of proof, failing to demonstrate a legitimate demand for the CCN. KCP&L’s PFR does not dispute this essential finding. Moreover, the Commission concluded that ratepayers should not be subsidizing “the cost of the CCN for the benefit of businesses.”²³ The Commission made clear that stimulating EV ownership and usage was best left to the automobile industry.²⁴ The Commission also made clear that “[i]f the CCN were truly necessary, KCP&L would commit to building the network and having its **shareholders finance the project.**”²⁵

15. KCP&L addresses the lack of demand issue in its PFR as if that was the only

²⁰ Order, ¶ 35.

²¹ PFR, ¶ 8.

²² Order, ¶ 14.

²³ *Id.* at ¶ 16.

²⁴ *Id.* at ¶ 7.

²⁵ *Id.*

reason²⁶ the CCN program and the proposed EV tariff were denied by the Commission. That is clearly not the case. CURB does not believe that allowing KCP&L its tariff to collect and provide data to the Commission at some future time will alleviate the other concerns the Commission has already addressed in its Order, namely the cross-subsidization²⁷ issue. KCP&L's attempt to get its Schedule CCN approved ignores the Commission's findings and is simply an attempt by KCP&L to wedge the door so that it can at some later date get "rate recovery of all costs of the program"²⁸ while disregarding all other findings by the Commission that led to the denial of its CCN program and EV tariff in the first place.

16. CURB believes that the Commission, as the policy maker, has determined this issue and that there is no need to address it at some future date. KCP&L does not provide any argument that the Commission's Order is unlawful or unreasonable. The Order should be affirmed. By doing so KCP&L can provide the CCN program as an unregulated operation.

17. CURB reiterates its position that EV charging is best left to a competitive market in that it alleviates the risk of anti-competitiveness and that KCP&L's CCN program should be treated as an unregulated operation.

WHEREFORE, CURB respectfully requests that the Commission deny KCP&L's Public Electric Vehicle Charging Station Service tariff, Schedule CCN, as filed.

²⁶ The Commission also addressed the concern that the CCN might be technologically obsolete before the program expires. Order, ¶ 28.

²⁷ "Even if the Commission were to have found there is a need for the CCN and that the program would be used and useful throughout its lifespan, there is still the issue of cross-subsidization." Order, ¶ 29.

²⁸ PFR, ¶ 7.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas J. Connors". The signature is written in black ink and is positioned above a horizontal line.

David Nickel, Consumer Counsel #11170

Thomas J. Connors, Attorney #27039

Citizens' Utility Ratepayer Board

1500 SW Arrowhead Road

Topeka, KS 66604

(785) 271-3200

(785) 271-3116 Fax

d.nickel@curb.kansas.gov

tj.connors@curb.kansas.gov

VERIFICATION

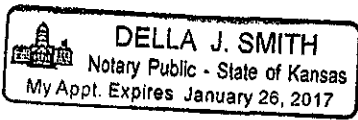
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

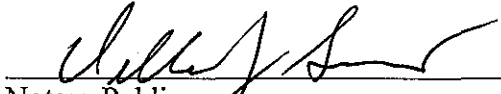
I, Thomas J. Connors, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.



Thomas J. Connors

SUBSCRIBED AND SWORN to before me this 6th day of October, 2016.





Notary Public

My Commission expires: 01-26-2017.

CERTIFICATE OF SERVICE

16-KCPE-160-MIS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 6th day of October, 2016, to the following:

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
jflaherty@andersonbyrd.com

GLEND A CAFER, ATTORNEY
CAFER PEMBERTON LLC
3321 SW 6TH ST
TOPEKA, KS 66606
glenda@caferlaw.com

TERRI PEMBERTON, ATTORNEY
CAFER PEMBERTON LLC
3321 SW 6TH ST
TOPEKA, KS 66606
terri@caferlaw.com

JAMES ELLIS
CHARGEPOINT, INC.
254 EAST HACIENDA AVENUE
CAMPBELL, CA 95008
james.ellis@chargepoint.com

DAVE PACKARD
CHARGEPOINT, INC.
254 EAST HACIENDA AVENUE
CAMPBELL, CA 95008
dave.packard@chargepoint.com

ANNE SMART
CHARGEPOINT, INC.
254 EAST HACIENDA AVENUE
CAMPBELL, CA 95008
anne.smart@chargepoint.com

ROBERT J. HACK, LEAD REGULATORY COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 19th FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
ROB.HACK@KCPL.COM

CERTIFICATE OF SERVICE

16-KCPE-160-MIS

DARRIN R. IVES, VICE PRESIDENT, REGULATORY AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 19th FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
darrin.ives@kcpl.com

ROGER W. STEINER, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 19th FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
roger.steiner@kcpl.com

MARY TURNER, DIRECTOR, REGULATORY AFFAIR
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 19th FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
MARY.TURNER@KCPL.COM

NICOLE A. WEHRY, SENIOR PARALEGAL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST 19th FLOOR (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
NICOLE.WEHRY@KCPL.COM

MICHAEL DUENES, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
m.duenes@kcc.ks.gov

BRIAN G. FEDOTIN, DEPUTY GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
b.fedotin@kcc.ks.gov

ANDREW FRENCH, SENIOR LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
a.french@kcc.ks.gov


Della Smith
Administrative Specialist