

Both KCP&L and Staff recommend the Commission deny the Schools' Petition for Reconsideration and Clarification. However, a careful review of these filings indicates substantial agreement among the parties on several issues. As indicated below, several simple clarifications by the Commission can likely bridge the gaps in the parties' positions. Further, in consideration of KCP&L and Staff's explanatory comments, the Schools withdraw the portion of their Petition for Reconsideration requesting a more expedited procedural schedule.

## **I. Background**

1. On February 1, 2018, Kansas City Power & Light Company ("KCP&L") filed an Application requesting authorization to make certain changes to its charges for retail electric service in Kansas. The matter was docketed as 18-KCPE-480-RTS.

2. On October 15, 2018, the Schools, KCP&L, the Staff of the Commission ("Staff"), the Citizens Utility Ratepayer Board ("CURB"), and other parties filed a Unanimous Settlement Agreement ("the Settlement") addressing all issues raised in the KCP&L rate proceeding. In the Settlement, the parties agreed the Commission "should initiate a general investigative docket on or before July 1, 2019, to evaluate whether KCP&L should implement one or more School tariffs and how such a tariff(s) should be designed and implemented." The parties further agreed KCP&L should be authorized to utilize certain accounting treatments to facilitate implementation of a new schools tariff before KCP&L's next rate case.<sup>1</sup> Finally, assuming a schools tariff is implemented, the parties agreed KCP&L will "separately identify schools tariff customers in the class cost of service study filed in its next rate case."<sup>2</sup>

3. On December 13, 2018, the Commission issued its Order Approving Unanimous Settlement Agreement. In its Order, the Commission expressly found a general investigation to evaluate whether KCP&L should establish a separate tariff or tariffs for schools is appropriate.<sup>3</sup>

4. On June 27, 2019, the Commission issued its Order Opening General Investigation in accordance with the Settlement approved in the KCP&L rate case.

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<sup>1</sup> Docket No. 18-KCPE-480-RTS, Unanimous Settlement Agreement, filed as Attachment to Joint Motion for Approval of Unanimous Settlement Agreement, October 15, 2018, ¶ 34.a. (Settlement, ¶ 34.a.)

<sup>2</sup> Settlement, ¶ 34.c.

<sup>3</sup> Docket No. 18-KCPE-480-RTS, Order Approving Unanimous Settlement Agreement, December 13, 2018, ¶ 25.

5. On July 12, 2019, the Schools filed a Petition for Reconsideration of the Commission's Order Opening General Investigation. Specifically, the Schools requested the Commission 1) reconsider certain language and clarify that the "homogeneity" of load profiles would not be the sole evidence considered to determine whether KCP&L should offer a schools tariff,<sup>4</sup> 2) reconsider certain language and clarify that the Commission is not predetermining the timing of tariff/rate implementation,<sup>5</sup> 3) reconsider and expedite certain procedural deadlines,<sup>6</sup> and 4) reconsider its directive for the parties to jointly suggest a definition of the schools that will be subject to this general investigation prior to reviewing electrical load data.<sup>7</sup>

6. On July 22, 2019, KCP&L filed a Response to the Schools' Petition for Reconsideration and Clarification. In its Response, KCP&L contended 1) "homogeneity" is the relevant factor for determining whether a separate school tariff is appropriate,<sup>8</sup> 2) the Commission reasonably found a schools tariff should not be implemented until KCP&L's next rate case (in 2023),<sup>9</sup> 3) the procedural timeline for this investigation should not be modified,<sup>10</sup> and 4) the Commission should not modify its directive for the parties to recommend a definition of the schools that will be subject to this general investigation.<sup>11</sup>

7. On July 22, 2019, Staff also filed a Response to the Schools' Petition for Reconsideration and Clarification. In its Response, Staff contends the Schools' Petition need not be granted. However, to reach this result, Staff interprets the Commission's Order differently from

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<sup>4</sup> Petition for Reconsideration and Clarification, July 18, 2019, ¶ 14.

<sup>5</sup> Petition for Reconsideration and Clarification, ¶ 17.

<sup>6</sup> Petition for Reconsideration and Clarification, ¶ 20.

<sup>7</sup> Petition for Reconsideration and Clarification, ¶ 23.

<sup>8</sup> Response of Kansas City Power & Light to Petition for Reconsideration of the Schools, July 22, 2019, ¶ 15. (KCP&L Response, ¶ 15.)

<sup>9</sup> KCP&L Response, ¶ 21.

<sup>10</sup> KCP&L Response, ¶ 22.

<sup>11</sup> KCP&L Response, ¶ 25.

both KCP&L and the Schools. Staff contends 1) reconsideration of the standard for whether a schools tariff is appropriate is unnecessary because the Commission's Order did not limit its decisional review to only include evidence of the homogeneity of customer load profiles,<sup>12</sup> 2) reconsideration of the tariff implementation timeline is unnecessary because the Commission's Order does not forestall implementation of schools tariff before KCP&L's next base rate proceeding,<sup>13</sup> 3) the procedural timeline for this investigation should not be modified,<sup>14</sup> and 4) the Commission should not modify its directive for the parties to recommend a definition of the schools that will be subject to this general investigation.<sup>15</sup>

## **II. Reply to KCP&L and Staff**

### **a. The Standard for whether a Schools Tariff should be Implemented**

8. In the Schools' Petition for Reconsideration and Clarification, the Schools expressed concern regarding the Commission apparent decision to limit its inquiry of whether a schools tariff should be implemented to an examination of whether of the schools' electrical load profiles are "homogenous." The Schools noted there would be additional evidence relevant to this question. And differences between different facilities' load profiles *may* simply indicate a need for multiple tariffs or a very flexible tariff rate. In their Responses, KCP&L and Staff offer divergent interpretations of the Commission's Order on this issue.

9. Similar to the Schools' initial interpretation, KCP&L interprets the Commission's Order to find that the "homogeneity" of the schools' electrical load profiles is *the* relevant factor

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<sup>12</sup> Commission Staff's Response to the Schools' Petition for Reconsideration and Clarification, July 22, 2019, p. 2, ¶¶ 3-6. (Staff Response, p. 2, ¶¶ 3-6.)

<sup>13</sup> Staff Response, ¶ 8-9.

<sup>14</sup> Staff Response, ¶ 7.

<sup>15</sup> Staff Response, ¶ 10.

in determining whether a schools tariff should implemented.<sup>16</sup> KCP&L requests the Commission deny reconsideration because this standard will not limit its proposed course of action.<sup>17</sup>

10. Staff, on the other hand, states that homogeneity is not a "limiting condition" under the Commission's Order<sup>18</sup> and contends reconsideration is unnecessary because the Commission's Order allows consideration of additional evidence, including other "usage information, load profiles, and policy considerations."<sup>19</sup> Further, Staff explains the Commission's Order does not necessarily presume "operational differences" alone would automatically cause the Commission "to deny a schools tariff altogether."<sup>20</sup>

11. The Schools did not initially interpret the Commission's Order in the same manner as Staff. However, Staff's statements are consistent with the Schools' expectations for this proceeding and, if confirmed by the Commission, would substantially alleviate the Schools' concerns on this issue. Therefore, the Schools request the Commission confirm Staff's interpretation of its Order. To that end, the Schools specifically request the Commission confirm its Order does not preclude consideration of additional relevant evidence and does not presume operational differences between various school facilities would necessarily or automatically render a schools tariff inappropriate.<sup>21</sup>

**b. The Timing for KCP&L to Implement a Schools Tariff**

12. In the Schools' Petition for Reconsideration and Clarification, the Schools expressed concern regarding the Commission's apparent decision that a schools tariff, if found

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<sup>16</sup> KCP&L Response, ¶ 15.

<sup>17</sup> KCP&L Response, ¶ 15.

<sup>18</sup> Staff Response, p. 2.

<sup>19</sup> Staff Response, ¶ 4.

<sup>20</sup> Staff Response, ¶ 5.

<sup>21</sup> The Schools are referring to the fact that non-homogeneity *may* simply indicate multiple tariffs or a very flexible tariff are appropriate.

appropriate, would not be implemented until KCP&L's next rate case – in 2023. Similar to the above issue, KCP&L and Staff offer divergent interpretations of the Commission's Order on this issue.

13. In its Response, KCP&L argues the Commission reasonably found a schools tariff should not be implemented until KCP&L's next rate case.<sup>22</sup>

14. Conversely, Staff states that reconsideration of the tariff implementation timeline is unnecessary because "nothing in the Order Opening General Investigation forestalls implementing a schools tariff before KCP&L's next base rate proceeding."<sup>23</sup>

15. Again, the Schools' did not initially interpret the Commission's Order in the same manner as Staff. However, Staff's statements are wholly consistent with the Schools' expectations and are consistent with the Settlement Agreement approved in KCP&L's recently concluded rate case. If Staff's interpretation is confirmed by the Commission, the Schools' concerns on this issue would be substantially resolved. Therefore, the Schools request the Commission confirm Staff's interpretation of its Order and confirm the Commission's Order does not preclude implementation of a KCP&L schools tariff before KCP&L's next base rate proceeding.

### **c. The Procedural Timeline of the Investigation**

16. In the Schools' Petition for Reconsideration and Clarification, the Schools expressed concern regarding the distant procedural deadlines for this proceeding. In particular, the Schools were concerned the slow pace of the proceeding was solely intended to allow the Schools to retain consulting services – an unnecessary accommodation at this time.

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<sup>22</sup> KCP&L Response, ¶ 21.

<sup>23</sup> Staff Response, ¶ 8-9.

17. However, in their Responses, both KCP&L and Staff contend the Commission's proposed deadlines are appropriate. Specifically, KCP&L states, "A great deal of work will be required of KCP&L in gathering and analyzing data, and then preparing a formal study to submit to the Commission."<sup>24</sup> Therefore, KCP&L asks the Commission to deny reconsideration of its procedural timeline.

18. The Schools respect and appreciate KCP&L's comments. In consideration of Staff and KCP&L's clarifications on this issue, the Schools respectfully withdraw their request to expedite the procedural deadlines for this proceeding.

**d. The Procedure for Defining a "Schools" subject to this Investigation**

19. In the Schools' Petition for Reconsideration and Clarification, the Schools requested the Commission allow the parties to review the electrical load profiles and pricing data of different school entities and facilities before suggesting a definition for the schools that will be subject to this general investigation. Alternatively, the Schools requested the parties be allowed to suggest a broad definition of "schools," which could be altered as the investigation progresses.

20. In their Responses, both Staff and KCP&L contend it is mechanically necessary to define the school customers subject to this investigation at the outset so that KCP&L knows which data to compile and analyze.<sup>25</sup> KCP&L emphasized it "needs to know the answer to this question at the outset so that it can identify the universe of data it needs to gather, review and analyze in its study."<sup>26</sup> The Schools understand and appreciate this concern.

21. Upon a careful review of their comments, it appears both Staff and KCP&L support the Schools' alternative suggestion to broadly define "schools," subject to future alteration as

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<sup>24</sup> KCP&L Response, ¶ 22.

<sup>25</sup> Staff Response, ¶ 10; KCP&L Response, ¶ 25.

<sup>26</sup> KCP&L Response, ¶ 25.

additional data becomes available. In its Response, KCP&L contends the parties are not being asked to define the specific customers and facilities a schools tariff will apply to. Instead, KCP&L reasons, the parties are only defining the "universe" of schools which "will be included in the investigation *for purposes of using their data in the analysis*."<sup>27</sup>

22. Similarly, Staff states, "the definition of "school" should be flexible to adapt as more data becomes available. For that reason, parties should be allowed to recommend the definition of school be expanded (or limited) as more data becomes available."<sup>28</sup>

23. The Schools generally agree with the positions of both KCP&L and Staff on this issue. The purpose of suggesting a definition at this time is only to define the "universe" of entities that are the subject of this investigation – and to which a schools tariff *may* eventually be available to. And such a definition should be subject to limitation or expansion based on the parties' review of available data and other relevant evidence. Therefore, so long as the facilities and customer accounts of the Schools (those choosing to actively participate in this proceeding) will be included in the initial group of entities/load data to be studied, the Schools have no objection to defining such a group at this time.

WHEREFORE, the Schools respectfully request the Commission accept their Petition for Reconsideration and issue an order consistent with the recommendations set forth therein, subject to the further discussion above.

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<sup>27</sup> KCP&L Response, ¶ 24.

<sup>28</sup> Staff Response, ¶ 10.



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**VERIFICATION**  
**K.S.A. 53-601**

I verify under penalty of perjury that the foregoing is true and correct.

*/s/ Andrew J. French*  
Andrew J. French

Executed on July 24, 2019.

### **CERTIFICATE OF SERVICE**

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or regular U.S. mail (unless otherwise noted), the 24<sup>th</sup> day of July, 2019, to the parties below:

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