

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

In the Matter of a General Investigation)
Regarding the Possible Implementation of a)
Separate Schools-Only Tariff in Kansas City) Docket No. 19-GIME-504-GIE
Power & Light's Service Territory.)

**COMMISSION STAFF'S RESPONSE TO THE SCHOOLS'
PETITION FOR RECONSIDERATION AND CLARIFICATION**

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) respectfully files its Response to the Olathe Public Schools – Unified School District No. 233, Johnson County Community College, Spring Hill School District – Unified School District No. 230, Blue Valley Schools – Unified School District No. 229, and Shawnee Mission School District – Unified School District No. 512's (collectively referred to as "the Schools")¹ Petition for Reconsideration and Clarification. In support thereof, Staff states the following:

I. BACKGROUND

1. As part of a Settlement Agreement approved in Kansas City Power & Light's (KCP&L) last base rate case,² the Commission opened this general investigation to evaluate whether KCP&L should establish a separate tariff (or tariffs) for schools.³ The Commission directed KCP&L and the Schools to file comments on the scope of the general investigation, and further directed Staff to file a Report and Recommendation based on those comments.⁴ From the comments, the Commission developed a three-phase procedural framework for this investigation.⁵

¹ Note: The Shawnee Mission School District was not a party to Docket No. 18-KCPE-480-RTS.

² Joint Motion for Approval of Unanimous Settlement Agreement, Docket No. 18-KCPE-480-RTS (Oct. 15, 2018).

³ See Order Approving Unanimous Settlement Agreement, Docket. No. 18-KCPE-480-RTS, p. 8, ¶25 (Dec. 13, 2018) (Order Approving S&A); See also Order Opening General Investigation (Jun. 27, 2019) (General Investigation Order).

⁴ See Order Approving S&A at pp. 8-9.

⁵ See General Investigation Order at p. 4, ¶8.

II. STAFF'S RESPONSE TO THE SCHOOLS' PETITION

2. Staff appreciated the Schools' passion for thorough and complete investigations. Staff believes the Commission's Order Opening General Investigation and procedural framework contained therein provides ample opportunity to evaluate whether a separate schools tariff is necessary in KCP&L's service territory. For the reasons stated below, Staff asserts reconsideration or clarification of the Commission's order opening this general investigation is unnecessary.

A. Homogeneity Not a Limiting Condition

3. Phase II of this investigation focuses on "whether a separate school tariff is appropriate, based on whether the available data shows the schools are homogenous enough to form a class."⁶ The Schools argue this imposes an "incomplete standard," and restricts the consideration of relevant evidence.⁷ The Commission's order in this docket and the order approving the Settlement Agreement in KCP&L's last base rate case indicates otherwise.

4. The central focus of this general investigation is to see whether schools operating in KCP&L's service territory are homogenous enough to form a class. In KCP&L's last base rate case, the Schools argued KCP&L's existing rate structure did not fit their particular characteristics.⁸ Determining whether schools are homogenous enough to establish their own customer class will answer this question. Moreover, the Commission will base this determination on "available data." Surely "available data" includes usage information, load profiles and policy considerations.

⁶ General Investigation Order, p. 5, ¶9.

⁷ Petition for Reconsideration and Clarification, pp. 5-6.

⁸ See Direct Testimony Prepared by David Banks, p. 13 (Sep. 12, 2018) ("Unfortunately, none of [KCP&L's existing rate schedules] address the unique operational characteristics of educational institutions.").

5. The Schools argue usage characteristics can vary depending on school type (i.e. primary schools and community colleges may operate differently).⁹ As such, school usage may not be “homogenous” across all school types. The Schools worry the Commission would use operational differences to deny a schools tariff altogether.¹⁰ In the Commission’s Order approving the Settlement Agreement in KCP&L’s last base rate case, the Commission explicitly stated:

As part of the Unanimous Settlement Agreement, the Signatories requested a general investigation docket to evaluate whether KCP&L should establish a separate tariff *or tariffs* for schools. . . The Commission agrees that such a general investigation is appropriate.¹¹

6. The Commission went on to approve the Settlement Agreement in its entirety.¹² As such, the Commission has already established separate schools tariffs may be considered.

B. Procedural and Implementation Timelines

7. Phase II of this investigation requires KCP&L to “submit a report on whether to establish a school specific rate class by May 1, 2020.”¹³ The Schools categorize this timeframe as “extremely slow” and cite Staff testimony indicating the investigation should be completed by summer 2020.¹⁴ The Schools take Staff’s testimony out of context. The Commission inquired whether this investigation could be “completed and resolved before [KCP&L’s] five-year rate moratorium is completed.”¹⁵ In response, Staff envisioned this investigation “would be done by the summer of 2020.”¹⁶ Phase II sets multiple reporting deadlines (the last of which is November 2020).¹⁷ This docket’s schedule closely resembles a schedule Staff thought would be appropriate.

⁹ See *id.* at pp. 5-6, ¶11.

¹⁰ See *id.*

¹¹ Order Approving S&A, p. 8, ¶25 (emphasis added).

¹² See *id.* at p. 8, Ordering Clause A.

¹³ General Investigation Order, p. 5, ¶9.

¹⁴ Petition for Reconsideration and Clarification, p. 8, ¶19.

¹⁵ Tr. Vol. 1, pp. 74-75 (Albrecht).

¹⁶ Tr. Vol. 1, p. 75 (Glass).

¹⁷ General Investigation Order, p. 6, Ordering Clauses A through D.

8. Assuming a schools tariff is necessary, the Commission directs KCP&L to “propose a tariff design for its next general rate case.”¹⁸ The Schools argue this precludes implementing a schools tariff before 2023, and is therefore unreasonable and inconsistent with the Settlement Agreement.¹⁹ The Schools’ argument is premature. The Settlement Agreement stated:

If the investigation results in the implementation of School tariffs that are not revenue neutral to KCP&L, then a regulatory asset/liability will be created to allow KCP&L recovery of those revenues and associated deferred return at the weighted-average cost of capital at the time of the next general rate proceeding following the rate moratorium period resulting from the Merger.

9. During the settlement hearing in KCP&L’s last base rate case, the Commission inquired whether implementing a schools tariff during KCP&L’s rate moratorium was permissible.²⁰ Staff testified on the implementation of revenue-neutral tariffs, and how a regulatory asset/liability could be utilized without violating KCP&L’s rate moratorium.²¹ In short, the Commission explored implementing a schools tariff before the expiration of KCP&L’s rate moratorium and went on to approve the Settlement Agreement in total. Assuming the establishment of a schools tariff is appropriate, nothing in the Order Opening General Investigation forestalls implementing a schools tariff before KCP&L’s next base rate proceeding.

C. Defining “School” Upfront is Appropriate

10. Phase I of this investigation requires parties to “collaborate and submit a joint recommendation to the Commission by July 29, 2019, suggesting an appropriate definition for the schools that will be subject to this general investigation.”²² The Schools argue it is more appropriate to “examine [the issue of defining a school] during [the parties’] review of electrical

¹⁸ General Investigation Order, p. 5, ¶9.

¹⁹ See Petition for Reconsideration and Clarification, p. 7, ¶15.

²⁰ See Tr. Vol. 1, p. 75 (Albrecht) (“If at the end of this general investigation there would be a shift of costs to other classes, would that violate the rate moratorium principles of the merger agreement in your opinion?”).

²¹ See Tr. Vol. 1, p. 75 (Glass) (“I don’t think so because there’s also the possibility of a regulatory asset [/] liability, and then that would come into play in the rate case in 2022 with the rates coming in in January 2023.”).

²² General Investigation Order, p. 6, Ordering Clause A.

load profile data.”²³ Staff disagrees. Defining a “school” is necessary for KCP&L to begin compiling and analyzing data for its May 2020 report. Requiring KCP&L to blindly compile data will only increase the costs of this investigation. Nevertheless, 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.

WHEREFORE, Staff respectfully requests the Commission deny the Schools’ Petition for Reconsideration and Clarification, permit the definition of “school” to be amended as appropriate, and for any other relief the Commission deems just and reasonable.

Respectfully submitted,

/s/ Robert Elliott Vincent

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²³ See Petition for Reconsideration and Clarification, p. 9, ¶23.

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) ss.
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VERIFICATION

Robert E. Vincent, being duly sworn upon his oath deposes and states that he is a Senior Litigation Counsel for Litigation Counsel of the Kansas Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Commission Staff's Response to the Schools' Petition for Reconsideration and Clarification*, and attests that the statements contained therein are true and correct to the best of his knowledge, information and belief.

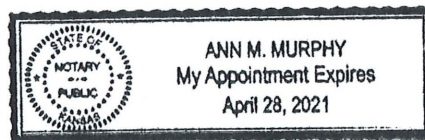


Robert E. Vincent
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Subscribed and sworn to before me this 22 day of July, 2019.


Ann Murphy

My Appointment Expires: 4-28-21



CERTIFICATE OF SERVICE

19-GIME-504-GIE

I, the undersigned, certify that a true and correct copy of the above and foregoing Commission Staff's Response to the Schools' Petition for Reconsideration and Clarification was served via electronic service this 22nd day of July, 2019, to the following:

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