

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

Before Commissioners:                      Dwight D. Keen, Chair  
   Shari Feist Albrecht  
   Susan K. Duffy

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.                      )

**ORDER DENYING THE SCHOOLS' PETITION FOR RECONSIDERATION  
AND CLARIFICATION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the file and records, and being properly advised, the Commission finds:

1.        On May 1, 2018, Kansas City Power & Light Company (KCP&L) filed for a \$32.9 million revenue increase, including property tax rebasing in Docket No. 18-KCPE-480-RTS (18-480 Docket).<sup>1</sup> As a result of the Commission's approval of the merger of KCP&L's parent company, Great Plains Energy, Inc. with Westar Energy, Inc., on May 24, 2018, KCP&L reduced its requested revenue increase to \$22.6 million.<sup>2</sup>

2.        Olathe Public Schools USD 233; Johnson County Community College; Spring Hill School District USD 230; and Blue Valley Schools – Unified School District No. 229 (the Schools) were granted intervention in the 18-480 Docket, claiming they are paying inordinately high rates for electric service, and seeking a separate schools tariff for educational institutions to take service as a separate customer class.<sup>3</sup>

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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, p 2.

<sup>3</sup> Direct Testimony of David W. Banks, Docket No. 18-KCPE-480-RTS, Sept. 12, 2018, p. 13.

3. On October 15, 2018, the Schools entered into a Joint Motion for Approval of Unanimous Settlement Agreement in the 18-480 Docket. Under one of the terms of the Unanimous Settlement Agreement, the Signatories agreed to ask the Commission to initiate a general investigation to evaluate whether KCP&L should implement a school tariff.<sup>4</sup>

4. On December 13, 2018, the Commission issued its Order Approving Unanimous Settlement Agreement in the 18-480 Docket. As part of its Order, the Commission agreed that a general investigation regarding a school tariff was appropriate and anticipated opening a general investigation by July 1, 2019.<sup>5</sup> The Commission directed KCP&L and the Schools to file comments delineating the scope of the general investigation into a possible school tariff, and Staff to file a Report and Recommendation based on those comments.<sup>6</sup>

5. On February 5, 2019, both KCP&L and the Schools filed comments. KCP&L recommended using in-house personnel to study the school tariff issue<sup>7</sup> and envisioned filing a report outlining its findings and allowing the other participants in the Docket to file responses to its report.<sup>8</sup> The Schools recommended a series of roundtable discussions involving the Schools, KCP&L, and Commission Staff in hopes of making a joint proposal to the Commission.<sup>9</sup> The Schools suggested a much broader scope for the general investigation.

6. After reviewing the Parties' comments, the Commission adopted a three phase investigation.<sup>10</sup> In Phase I, KCP&L, the Schools, and Staff are directed to collaborate and submit

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<sup>4</sup> Unanimous Settlement Agreement, Docket No. 18-KCPE-480-RTS (18-480 Docket), Oct. 15, 2018, ¶ 34.

<sup>5</sup> Order Approving Unanimous Settlement Agreement, 18-480 Docket, Dec. 31, 2018, ¶ 25.

<sup>6</sup> *Id.*

<sup>7</sup> Initial Comments of Kansas City Power & Light Company, 18-480 Docket, Feb. 5, 2019, ¶ 7.

<sup>8</sup> *Id.*, ¶ 11.

<sup>9</sup> Comments on Scope of School Tariff Investigation, 18-480 Docket, Feb. 5, 2019, ¶ 8.

<sup>10</sup> Order Opening General Investigation, June 27, 2019, ¶ 8.

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.<sup>11</sup>

7. In Phase II, KCP&L is directed to identify the relevant billing accounts, and review the relevant schools' usage, billings and rates for a 12-month test year ending June 30, 2018, and compare those rates and bills to the load profile of other customers from the same rate class.<sup>12</sup> KCP&L will submit a report on whether available data shows the schools are homogenous enough to form a school specific rate class by May 1, 2020.<sup>13</sup> If KCP&L's report finds a school specific tariff is justified, KCP&L is directed to propose a tariff design for its next general rate case.<sup>14</sup>

8. The Schools will have an opportunity to file comments in response to KCP&L's report by August 3, 2020, followed by Staff's Report and Recommendation, by November 2, 2020.<sup>15</sup>

9. If the Commission finds a separate school tariff is advisable, Phase III will focus on how to enact the tariff.<sup>16</sup>

10. On July 12, 2019, the Schools filed their Petition for Reconsideration and Clarification (PFR), presenting four main arguments: (1) the question of whether there is enough homogeneity among the schools to form a class should be delayed until the Commission takes up rate design;<sup>17</sup> (2) the new school tariff should be implemented prior to KCP&L's next general rate case;<sup>18</sup> (3) the investigation's timeline should be shortened by approximately three months;<sup>19</sup> and

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*, ¶ 9.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*, ¶ 10.

<sup>16</sup> *Id.*, ¶ 11.

<sup>17</sup> Petition for Reconsideration and Clarification, July 12, 2019, ¶ 11.

<sup>18</sup> *Id.*, ¶ 15.

<sup>19</sup> *Id.*, ¶ 20.

(4) the definition of “schools” should be deferred until the parties review the electrical load profile data.<sup>20</sup>

11. On July 22, 2019, both KCP&L and Staff filed responses to the Schools’ PFR expressing their opposition to the PFR. KCP&L takes issue with the Schools’ characterization of the positions that KCP&L has taken in its filed Comments and with the Schools’ interpretation of the settlement agreement in the 18-480 Docket.<sup>21</sup> First, KCP&L asserts modification of the Order is not warranted, as the Order properly states the appropriateness of a separate school tariff will be determined by the homogeneity of the schools as a class.<sup>22</sup> Second, KCP&L disputes the Schools’ claim that the Settlement Agreement in the 18-480 Docket expressly contemplated implementing a new school tariff before KCP&L’s next rate case.<sup>23</sup> Third, KCP&L explains the May 1, 2020 deadline to submit its study should not be shortened by three months because gathering and analyzing the data is a significant endeavor.<sup>24</sup> Finally, KCP&L explains defining schools is a necessary first step to allow it to know which schools’ data to collect and analyze.<sup>25</sup>

12. Staff, like KCP&L, charges the Schools with mischaracterizing some of their testimony on the appropriate timeframe for the investigation.<sup>26</sup> Instead of advocating for the investigation to be completed by summer 2020, Staff believes the schedule is appropriate.<sup>27</sup> Staff also agrees that defining “schools” upfront is necessary to allow KCP&L to compile and analyze the relevant data.<sup>28</sup>

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<sup>20</sup> *Id.*, ¶ 23.

<sup>21</sup> Response of Kansas City Power & Light to Petition for Reconsideration of the Schools, July 22, 2019, ¶¶ 14, 18-20.

<sup>22</sup> *Id.*, ¶ 17.

<sup>23</sup> *Id.*, ¶ 18.

<sup>24</sup> *Id.*, ¶ 22.

<sup>25</sup> *Id.*, ¶ 25.

<sup>26</sup> Commission Staff’s Response to the Schools’ Petition for Reconsideration and Clarification, July 22, 2019, ¶ 7.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*, ¶ 10.

13. On July 24, 2019, the Schools filed their Reply to the Responses of Staff and KCP&L to the Schools' Petition for Reconsideration and Clarification, withdrawing their claim for a more expedited schedule.<sup>29</sup> The Schools seek clarification that the Order: (1) does not preclude consideration of other relevant evidence or presume operational differences between various school facilities would render a school tariff inappropriate;<sup>30</sup> (2) does not preclude implementing a tariff before the next rate case;<sup>31</sup> and (3) does not prohibit the definition of school from changing based on the available data.<sup>32</sup>

14. Under the guise of seeking clarification, the Schools are actually seeking to rewrite the Order. The Commission will address the Schools' arguments chronologically, beginning with Phase I. The Order provides Phase I will address the threshold question of which schools should be included in this investigation. The Schools want to gather data before suggesting a definition.<sup>33</sup> The Commission rejects the Schools' suggestion to defer defining which schools' should be subject to the investigation. First, deferring the definition of schools is inefficient and costly as it would force KCP&L to collect and analyze data from some entities that will not meet the definition of schools. Second, deferring the definition of schools would allow the parties to manipulate the data, by cherry picking the schools that best promote their position. Instead, it is best to establish a definition of schools and limit the data gathering and analysis the institutions that fall under that definition.

15. With regard to Phase II, the Schools seek to modify the Order to specify that homogeneity is not a prerequisite to a school tariff. The Order explained "[i]n Phase II, the focus

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<sup>29</sup> Reply of the Schools to the Responses of Staff and KCP&L to the Schools' Petition for Reconsideration and Clarification (School Reply), July 24, 2019, ¶ 18.

<sup>30</sup> *Id.*, ¶ 11.

<sup>31</sup> *Id.*, ¶ 15.

<sup>32</sup> *Id.*, ¶ 22.

<sup>33</sup> *Id.*, ¶ 19.

will be on whether a separate school tariff is appropriate, based on whether the available data shows the schools are homogenous enough to form a class.”<sup>34</sup> The plain language demonstrates the Commission intends for homogeneity to be the crucial, but not exclusive, factor in determining whether to proceed to Phase III.

16. A petition for reconsideration must allege specific grounds for the Order’s unlawfulness or unreasonableness.<sup>35</sup> The Schools are not alleging the Order is unlawful or unreasonable on the issue of homogeneity. Instead, they are simply asking for confirmation that Staff’s interpretation of the Order is accurate.<sup>36</sup> Therefore, to the extent the Schools seek reconsideration on that issue, reconsideration is denied.

17. Finally, the Schools seek to amend the Order to establish a separate school tariff can be implemented before KCP&L’s next general rate case.<sup>37</sup> The Order decreed, “[i]f KCP&L’s report finds a school specific tariff is justified, KCP&L is directed to propose a tariff design for its next general rate case.”<sup>38</sup> The plain language of the Order demonstrates a tariff design for any school specific tariff should be presented in KCP&L’s next general rate case.

18. By virtue of the Commission’s Order Approving Merger, issued in the 18-KCPE-095-MER Docket, KCP&L is facing a five-year rate moratorium.<sup>39</sup> During the rate moratorium, it would be unfair to KCP&L to create a new rate class, unless it was revenue neutral. Presumably, the Schools do not envision a revenue neutral class, otherwise they would not be seeking a new rate class. Therefore, the Commission reiterates that any school specific tariff should be presented in KCP&L’s next general rate case. As with the issue of homogeneity, the Schools are not alleging

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<sup>34</sup> Order Opening General Investigation, ¶ 9.

<sup>35</sup> *Peoples Natural Gas Div. of Northern Natural Gas v. Kansas Corp. Comm’n*, 7 Kan. App. 2d 519, 526, rev. denied 231 Kan. 801 (1982).

<sup>36</sup> School Reply, ¶ 11.

<sup>37</sup> *Id.*, ¶ 15.

<sup>38</sup> Order Opening General Investigation, ¶ 9.

<sup>39</sup> See Order Approving Merger, Docket No. 18-KCPE-095-MER, May 24, 2018.

the Order is unlawful or unreasonable on the issue of the implementation date of the School Tariff. Therefore, to the extent the Schools seek reconsideration on that issue, reconsideration is denied.

**THEREFORE, THE COMMISSION ORDERS:**

A. The Schools' Petition for Reconsideration and Clarification is denied in its entirety.

B. Pursuant to K.S.A. 77-607(b)(2) and K.S.A. 77-608, Lynn M. Retz, Executive Director, is the agency officer designated to receive service of a petition for judicial review of behalf of the agency.<sup>40</sup>

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

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

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner.

Dated: 08/06/2019.



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Lynn M. Retz  
Executive Director

BGF

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<sup>40</sup> K.S.A. 77-529(d).

**CERTIFICATE OF SERVICE**

19-GIME-504-GIE

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

electronic service on 08/06/2019.

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