

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

In the Matter of a General Investigation Regarding )  
the Possible Implementation of a separate School- ) Docket No.: 19-GIME-504-GIE  
only Tariff in Kansas City Power & Light's service )  
territory. )

**RESPONSE OF KANSAS CITY POWER & LIGHT  
TO PETITION FOR RECONSIDERATION OF THE SCHOOLS**

COMES NOW Kansas City Power & Light Company ("KCP&L" or the "Company"), and responds as follows to the Petition for Reconsideration ("Petition") filed with the State Corporation Commission of the State of Kansas ("Commission") on July 12, 2019, by Olathe Public Schools - Unified School District No. 233 ("Olathe USD 233"), Johnson County Community College ("JCCC"), Spring Hill School District - Unified School District No. 230 ("Spring Hill USD 230"), Blue Valley Schools - Unified School District No. 229 ("Blue Valley USD 229"), and Shawnee Mission School District - Unified School District No. 512 ("Shawnee Mission USD 512"), (referred to herein collectively as "the Schools").

**A. INTRODUCTION AND BACKGROUND**

1. In Docket No. 18-KCPE-480-RTS ("18-480 Docket")<sup>1</sup>, the parties submitted a settlement agreement to the Commission on October 15, 2018, resolving all issues in KCP&L's rate case ("18-480 S&A"). On December 13, 2018, the Commission issued an Order approving the settlement agreement in its entirety ("18-480 Order").

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<sup>1</sup> *In the Matter of the Application of Kansas City Power & Light Company to Make Certain Changes in Its Charges for Electric Service.*

2. Olathe USD 233, JCCC, Spring Hill USD 230, and Blue Valley USD 229 were interveners in the 18-480 Docket (referred to herein as “the 18-480 Schools”). As regards their request for a special school tariff, the 18-480 S&A included a provision stating that the Commission should initiate a general investigative docket to evaluate whether KCP&L should implement one or more school tariffs and how such a tariff(s) should be designed and implemented. The 18-480 S&A also included terms addressing cost recovery related to the investigation and potential implementation of a schools tariff, the recording of certain data, and efforts required of KCP&L’s representatives to assist the 18-480 Schools in determining their appropriate rate and identifying other rate opportunities.<sup>2</sup>

3. In the 18-480 Order, the Commission stated that a general investigation into school tariffs was appropriate and directed KCP&L and the 18-480 Schools to file comments in that docket delineating the scope of the general investigation, with Staff filing a Report and Recommendation thereafter based on those comments.<sup>3</sup> KCP&L and the 18-480 Schools filed Initial Comments on February 5, 2019 (“KCP&L Initial Comments” and “18-480 Schools Initial Comments”) and Reply Comments on February 15, 2019 (KCP&L Reply Comments” and “18-480 School Reply Comments”). Staff filed its Report and Recommendation on March 18, 2019 (“Staff’s 18-480 R&R”).

4. In its Initial Comments, KCP&L stated that the general investigation would need to determine if schools demonstrate unique usage characteristics that would necessitate creating a separate class or a special rate.<sup>4</sup> This would involve, among other things, compiling and reviewing the individual usage, billings, and rates of the 18-480 Schools and performing comparisons against

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<sup>2</sup> 18-480 S&A, pp. 15-16, ¶34.

<sup>3</sup> 18-480 Order, p. 8, ¶25.

<sup>4</sup> KCP&L’s Initial Comments, p. 3, ¶9.

other rate classes.<sup>5</sup> KCP&L represented that it would begin evaluating the data for these purposes as soon as practical after the Commission defined the scope of the generic docket, and that the time needed to perform the evaluation would not be expected to exceed twelve months.<sup>6</sup>

5. Consistent with the 18-480 Order, the Commission opened this generic investigation on June 27, 2019 (“Order”). The Commission separated the proceeding into three phases. Phase I requires KCP&L, Staff and the Schools (identified as the 18-480 Schools<sup>7</sup>) to collaborate and submit by July 29, 2019, a joint recommendation suggesting an appropriate definition for the schools that will be subject to this general investigation. Phase II requires KCP&L to submit a study by May 1, 2020, on whether to establish a school-specific rate class based upon a quantitative analysis, allowing other parties to perform their own review of the data, develop their own conclusions, and submit comments in response to KCP&L’s study. Phase III will focus on how to design a tariff if one is found to be appropriate as a result of Phase II.

6. On July 12, 2019, the Schools filed a Petition for Reconsideration of the Commission’s Order Opening Docket.<sup>8</sup> The Schools request the Commission modify its Order so that it will (1) allow considerations other than homogeneity in determining the appropriateness of establishing a schools tariff, (2) indicate that a schools tariff may be implemented prior to KCP&L’s next rate case, (3) shorten the timeline for this proceeding, and (4) not require the definition of “schools” to be established as a threshold matter in Phase I. KCP&L disagrees with the Schools requests for reconsideration for the reasons explained below.

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<sup>5</sup> KCP&L’s Initial Comments, p. 3, ¶9.

<sup>6</sup> KCP&L’s Initial Comments, p. 3, ¶8.

<sup>7</sup> Order Opening Docket, p. 1, ¶2.

<sup>8</sup> The Petition for Reconsideration was filed on behalf of the 18-480 Schools and Shawnee Mission USD 512.

7. In addition, KCP&L objects to the Petition for Reconsideration being filed on behalf of Shawnee Mission USD 512 because Shawnee Mission USD 512 is not presently a party to this docket.

**B. OBJECTION TO INCLUSION OF SHAWNEE MISSION USD 512 AS A MEMBER OF THE GROUP DEFINED BY THE COMMISSION AS “THE SCHOOLS”**

8. On July 12, 2019, Counsel Andrew French and James Zakoura entered their appearances in this docket and filed a Petition for Reconsideration on behalf of the 18-480 Schools and Shawnee Mission USD 512. KCP&L objects to the inclusion of Shawnee Mission USD 512 in those pleadings because Shawnee Mission USD 512 has not yet taken the steps necessary to become a party.

9. The Schools are not members of an association or other organization that has intervened in this proceeding on their behalf. Thus, they are individual entities who must each obtain “party” status, even though they share the same legal counsel. K.A.R. 82-1-204(i) defines a “Party” as a person with an articulated interest in a particular commission proceeding who meets any of the following conditions:

- (A) An order is specifically directed to the person.
- (B) The person is named as a party to a commission proceeding.
- (C) The person is allowed to intervene as a party in the proceeding.

10. Shawnee Mission USD 512 has not filed to intervene, so it has not qualified as a party under subsection (C) of this regulation.

11. Oftentimes, when the Commission issues an order opening a generic docket it will name certain entities as parties to the proceeding, but that did not happen in this case. Therefore, subsection (B) of the regulation does not operate to make Shawnee Mission USD 512 a party.

12. Under subsection (A), KCP&L and the 18-480 Schools should be considered parties because the Order is specifically directed to them, requiring them to take certain actions. In paragraph 2, the Commission defines “the Schools” as the schools who participated in the 18-480 Docket: Olathe USD 233, JCCC, Spring Hill USD 230, and Blue Valley USD 229. Shawnee Mission USD 512 is not included under that definition as it did not participate in the 18-480 Docket. As such, it cannot be considered a party to this proceeding under subsection (A) of the regulation.

13. Therefore, if Shawnee Mission USD 512 wants to participate as a party in this case, it must file a petition to intervene under to K.A.R. 82-1-225, as the Citizens’ Utility Ratepayers Board (“CURB”) has done.<sup>9</sup> If the Commission grants the intervention, then Shawnee Mission USD 512 can participate as a member of the group the Commission has defined as “the Schools”.

**C. THE COMMISSION’S DETERMINATION AS TO THE SCOPE OF PHASE II OF THIS PROCEEDING SHOULD NOT BE RECONSIDERED OR MODIFIED**

14. The Schools request the Commission reconsider the language in the Order that states, “[I]n Phase II, the focus 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>10</sup> The Schools assert that this language conflicts with the recommendations of all the parties, sets an incomplete standard and creates an unnecessary and unreasonable limitation on the proceeding. KCP&L disagrees with the Schools’ representation of KCP&L’s positions taken in its Comments and believes the Commission should deny the Schools request to “clarify that the parties will be allowed to consider and present any evidence relevant to this issue.”<sup>11</sup>

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<sup>9</sup> CURB filed its Petition to Intervene on July 2, 2019. Staff is not required to take any action to obtain party status in a Commission docket as Staff is automatically deemed to be a party in all proceedings pursuant to K.A.R. 82-1-204(i)(3).

<sup>10</sup> Petition, p. 5, ¶10; p. 6-7, ¶14.

<sup>11</sup> Petition, p. 7, ¶14.

15. Contrary to the Schools' assertion, the Commission's Order is not inconsistent with KCP&L's explanation of the work KCP&L will perform as set out in paragraph 9 of KCP&L's Initial Comments. The data identified by KCP&L will show whether homogeneity exists, and homogeneity is the relevant factor for determining whether a separate school tariff is appropriate. The Commission's Order does not restrict KCP&L from taking the actions listed by KCP&L in paragraph 9 of its Initial Comments.

16. The Schools also represent KCP&L as saying that, when determining whether a schools tariff is appropriate, there is a "need to quantify the average rates paid by schools customers to understand whether KPC&L's current rates are flexible enough to handle those accounts."<sup>12</sup> The Schools cite to paragraph 9 of KCP&L's Initial Comments for this statement, but nothing in that paragraph says anything about evaluating the flexibility of KCP&L's current rates. The Schools misrepresent KCP&L's Comments in this regard.

17. The Commission's Order properly states that the question of whether a separate school tariff is appropriate will be determined by an analysis of the homogeneity of schools as a class. Modification of the Order is not warranted. However, if the Commission should decide to expand Phase II of this docket to allow the Schools to address issues other than homogeneity, then KCP&L requests the Commission also modify the procedural schedule to allow KCP&L the opportunity to file a reply to the School's comments.<sup>13</sup>

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<sup>12</sup> Petition, p. 6, ¶12.

<sup>13</sup> The Schools' comments in response to KCP&L's study are to be filed on August 3, 2020. KCP&L is requesting until August 17, 2020 to file its reply to those comments. This should not impact the November 2, 2020 deadline for Staff's R&R.

**D. THE COMMISSION'S DETERMINATION ON THE TIMING FOR FILING A SCHOOLS TARIFF SHOULD NOT BE MODIFIED**

18. The Schools request the Commission reconsider the part of its Order directing KCP&L to propose a tariff design for its next general rate case, assuming it is determined in this docket that a schools tariff is appropriate.<sup>14</sup> The Schools incorrectly represent that the 18-480 S&A “expressly contemplated the implementation of new schools tariff before KPC&L’s next rate case,” and therefore, this language in the Order is inconsistent with the terms of the settlement.<sup>15</sup> The Schools cite to two terms of the 18-480 S&A which they incorrectly claim support their position.

19. First, the Schools argue that the term of the 18-480 S&A that allows KCP&L to track and account for lost revenue resulting from customer migration as a result of implementation of a schools tariff and to request recovery of that revenue in its next rate case indicates the intent of the parties that a schools tariff would be implemented prior to KCP&L’s next rate case. But all this language does is preserve these revenues for recovery *if* a schools tariff is implemented prior to the next rate case; it does not show that the parties intended for that to happen or agreed it should happen.

20. Second, the Schools assert that the term of the 18-480 S&A that says KCP&L will separately identify schools tariff customers in the class cost of service study filed in its next rate case, “inherently requires KCP&L to implement the schools tariff before its next rate case.”<sup>16</sup> Again, this language addresses a situation where a schools tariff is implemented before the next rate case; it does not require implementation prior to the next rate case or indicate that was the parties intent in the agreement.

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<sup>14</sup> Petition, p. 7, ¶15.

<sup>15</sup> Petition, p. 7, ¶15 and ¶17.

<sup>16</sup> Petition, p. 7, ¶16.

21. The Commission found in its Order that any schools tariff resulting from this docket should be filed in KCP&L's next rate case and that finding is reasonable and consistent with the terms of the 18-480 S&A. The Schools' request for reconsideration of this aspect of the Order should be denied as the reasons given by the Schools do not support reconsideration.

**E. THE COMMISSION SHOULD NOT MODIFY THE TIMELINE ESTABLISHED FOR THE DOCKET**

22. The Schools request the Commission reconsider the filing timeline set out in the Order and shorten it by three months. The Schools erroneously indicate that the Commission's rationale for the schedule is related only to the time needed by the Schools to obtain a consultant. On the contrary, the timeline contemplates the needs of all parties in this docket. 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. As KCP&L stated in its Initial Comments filed in the 18-480 Docket, the time needed to perform its evaluation "would not be expected to exceed twelve months *from the date of Commission order concerning the scope.*"<sup>17</sup> The May 1, 2020 deadline for KCP&L to submit its study is not excessively long. The Schools request for reconsideration of the timeline should be denied.

**F. THE COMMISSION SHOULD NOT MODIFY ITS FINDING THAT PHASE I OF THIS PROCEEDING NEEDS TO IDENTIFY WHICH SCHOOLS SHOULD BE PART OF THIS INVESTIGATION BEFORE BEGINNING THE STUDY IN PHASE II**

23. The Schools request reconsideration of the Commission's finding that the parties should define a "school" in Phase I of this docket. The Schools assert that to define "schools", they must first be able to review the electrical load profiles and pricing data of different school entities and facilities, and that data will only be available as part of Phase II of this proceeding.<sup>18</sup>

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<sup>17</sup> KCP&L's Initial Comments, p. 3, ¶8 (emphasis added).

<sup>18</sup> Petition, pp. 8-9, ¶21.



24. In the Order, the Commission directed the parties to submit a joint recommendation suggesting an appropriate definition for the schools that will be subject to this general investigation.<sup>19</sup> This requires the parties to determine which schools will be included in the investigation *for purposes of using their data in the analysis*. In contrast, the Schools' Petition addresses "which customers and facilities a schools tariff should apply to."<sup>20</sup> In other words, which entities would fall under the definition of a "school" for purposes of qualifying for a schools tariff, as compared to which schools should be included in this study for purposes of using their data in the study.

25. The only relevant question at this time is how to define which schools will be included in the data gathered to perform the investigation in this docket. KCP&L 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. As such, the definition cannot be left open-ended until after Phase II is underway as the Schools suggest. The Commission's finding that the first step of this process needs to be defining which schools should be part of the investigation is correct and should not be modified.

## **G. CONCLUSION**

26. The Commission's Order properly defines the parameters of this investigation and establishes a three-phase approach that will facilitate efforts to address the relevant issues. The Order establishes a reasonable timeline for accomplishing the goals of this docket. As such, the Order should not be modified and the Schools request for reconsideration should be denied.

27. If the Commission determines that Phase II of this docket should be expanded to allow the Schools to address issues other than homogeneity as the basis for establishing a separate

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<sup>19</sup> Order, p. 4, ¶8.

<sup>20</sup> Petition, p. 9 ¶22.

schools tariff, then KCP&L respectfully requests the Commission also modify the procedural schedule to allow KCP&L to file a reply to the School's comments, which are presently scheduled to be filed on August 3, 2020. Allowing KCP&L until August 17, 2020, to file a reply would be sufficient and should not impact Staff's November 2, 2020 deadline for filing its recommendation.

Respectfully submitted,

/s/ Roger W. Steiner

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## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record, as detailed below, this 22<sup>nd</sup> day of July 2019.

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