

Kansas Corporation Commission
Commission Meeting
September 10, 2015
10:00 a.m. 1st floor hearing room
KCC Offices, 1500 SW Arrowhead, Topeka, Kansas

MINUTES

The Commission convened the regularly scheduled open meeting of the Commission at 10:00 a.m. on September 10, 2015 in the 1st floor hearing room of the Kansas Corporation Commission, 1500 SW Arrowhead, Topeka, Kansas.

Present: Chair Albrecht, Commissioner Emler and Commissioner Apple. The following were considered by the Commission:

1. **Consent Agenda:** Commissioner Emler moved for approval of the Consent Agenda: All other listed matters as presented for September 10, 2015 on the 4 page document attached hereto as "Attachment A," which is included by reference herein. Commissioner Apple seconded the Motion. Commissioner Albrecht concurred. Motion was approved.

2. **Noticed :**

- A. **Docket No. 15-KCPE-116-RTS, *In the Matter of the Application of Kansas City Power & Light Company to Make Certain Changes in Its Charges for Electric Service.***

Commissioner Emler moved for approval of order #15-2906 - *Order on KCP&L's Application for Rate Change.* Commissioner Albrecht seconded.

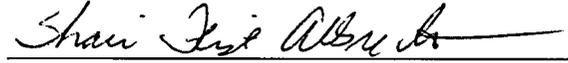
Commissioner Apple voted no and asked that his explanation and comments be included in the minutes of the meeting (see attachment B). Motion was approved.

There being no further matters before the Commission, Commissioner Emler moved for adjournment of the Commission meeting, Commissioner Apple seconded the Motion. Commissioner Albrecht concurred. The Motion was approved, the Commission adjourned the September 10, 2015 Commission Meeting at 10:12 a.m.

Respectfully submitted,



Amy L. Gilbert
Secretary



Shari Feist Albrecht, Chair



Jay Scott Emler, Commissioner



Pat Apple, Commissioner



ITEMS OF Consent Agenda

Approval Date: Thursday, September 10, 2015

NOTICE TO THE PUBLIC: There will be no separate discussion of Consent Agenda items as they are considered to be routine by the Kansas Corporation Commission. Unless removed from the website's Consent Agenda, the orders appearing on the Consent Agenda will become the Order of the full Commission at the Commission's regularly scheduled Business Meeting. If Commission staff or a Commissioner requests an item be removed from the Consent Agenda, the affected item may be considered separately or placed on the earliest possible Business Meeting agenda for discussion.

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
1	In the Matter of the Application of United Telephone Companies of Kansas d/b/a CenturyLink for Permission to Transfer Territory from the Edgerton Exchange to the Gardner Exchange. <i>Certificate and Order</i>	16-UTDT-072-CXB	
2	In the Matter of a General Investigation of Comcast Phone of Kansas, LLC to Show Cause Why This Commission Should Not Initiate Sanctions and Fines and Cancel, Suspend and Revoke Any Authority the Carrier Currently Holds. <i>Order to Show Cause</i>	16-CPKT-127-SHO	
3	In the Matter of the Complaint Against KCP&L by Toby L Boschert <i>Order Adopting Legal Memorandum</i>	16-KCPE-109-COM	
4	In the Matter of Anadarko Natural Gas Company, LLC ("ANGC") Filing Certain Gas Sales Contracts In Compliance with the Stipulated Settlement Agreement Approved in KCC Docket 14-ANGG-119-COM <i>Order Granting Application</i>	15-ANGG-459-CON	

Consent Agenda

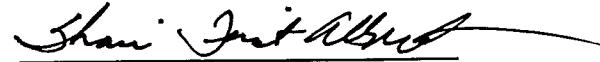
ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
5	In the Matter of the Application of Atmos Energy Corporation for Adjustment of its Natural Gas Rates in the State of Kansas <i>Order on Protective and Discovery Orders; Electronic Service; Designating Prehearing Officer; Suspension; and Granting CURB Intervention</i>	16-ATMG-079-RTS	
6	In the Matter of the Complaint Against Kansas Gas Service Company and NPL by Virginia L. Mendez <i>Order Adopting Staff's Memorandum</i>	16-KGSG-102-COM	
7	In the Matter of Magellan Pipeline Company, L.P., Filing Tariff Revisions Canceling the Three-Year Volume Incentive Program From Origins in Kansas to Kansas City (Fairfax), Kansas. <i>Suspension Order</i>	16-MGPP-110-TAR	
8	In the Matter of the Emergency Suspension of Operating Authority of Nicholas Matthew Smith, d/b/a Alltrade of Garden City, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Order Reinstating Motor Carrier Operating Authority</i>	16-TRAM-043-OOS	
9	In the Matter of the Emergency Suspension of Operating Authority of Chris Buettell, d/b/a CLC Services of Overland Park, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-118-OOS	
10	In the Matter of the Emergency Suspension of Operating Authority of Amstar Electric, LLC of Oberlin, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-119-OOS	
11	In the Matter of the Emergency Suspension of Operating Authority of Derrek S. Wilson, d/b/a Wilson Racing of Chanute, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-120-OOS	
12	In the Matter of the Emergency Suspension of Operating Authority of Kenneth E. Colston, d/b/a Colston Family Racing of Chanute, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-121-OOS	
13	In the Matter of the Emergency Suspension of Operating Authority of Brandon Fail of Chanute, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-122-OOS	

Consent Agenda

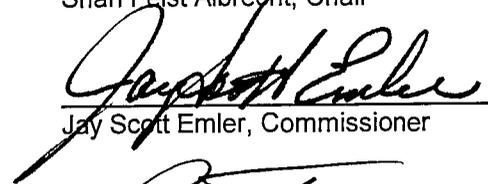
ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
14	In the Matter of the Emergency Suspension of Operating Authority of Advantage Termite & Pest Control, Inc. of De Soto, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-123-OOS	
15	In the Matter of the Emergency Suspension of Operating Authority of Twisted Piston Transport, LLC of Sharon, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-124-OOS	
16	In the Matter of the Emergency Suspension of Operating Authority of Brian Marck of Wichita, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	16-TRAM-125-OOS	
17	In the Matter of the Application of Stephen C. Jones for an Order permitting the horizontal drilling of its J. Birk 8A well, into Squirrel Sand formation, in Section 28, Township 22 South, Range 14 East, Coffey County, Kansas <i>Order Granting Application</i>	16-CONS-151-CHOR	
18	In the Matter of the Application of Bobcat Oilfield Service, Inc., to amend the injection permit on the Cadmus Project located in Sections 5, 8, & 9, Township 20 South, Range 23 East, Linn County, Kansas. <i>Order Designating Prehearing Officer & Setting Prehearing Conference</i>	16-CONS-515-CUIC	
19	In the matter of the application of SandRidge Exploration and Production, LLC for Permission to Flare Natural Gas from the Perth 3302 #2-1H Well in Sumner County, Kansas, Pursuant to K.A.R. 82-3-208 and 82-3-314. <i>Order Granting Application</i>	15-CONS-251-CFLA	
20	In the matter of the failure of Bramwell Petroleum, Inc. ("Operator") to comply with K.A.R. 82-3-607 at the Nirschl Lease in Kingman County, Kansas. <i>Penalty Order - Bramwell Petroleum, Inc.</i>	16-CONS-516-CPEN	

The above-captioned matter(s) were approved by the Commission, unless noted as removed.

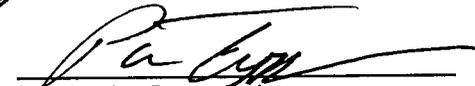
For the Commission :



Shari Fejst Albrecht, Chair



Jay Scott Emler, Commissioner



Pat Apple, Commissioner

Attest:



Amy L. Gilbert
Secretary

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

September 10, 2015

Explanation of Vote by Commissioner Apple Regarding:

In the Matter of the Application of Kansas
City Power & Light Company to Make
Certain Changes in Its Charges for Electric
Service. Docket No. 15-KCPE-116-RTS

Thank you Commissioner Albrecht and Commissioner Emler for the opportunity to explain why I am unable to join in approving the Order before us today.

The Order today approves a total revenue increase of \$48,672,230 and rates will increase by 7.5% overall. The fixed monthly residential charge will increase from \$10.40 to \$14.00. This is a 31% increase. To also note, the Energy Cost Adjustment (ECA) has risen approximately 120% since 2008 while energy fuel costs have trended in the opposite direction.

Historically, KCP&L Kansas consumers pay higher rates than KCP&L Missouri consumers. Kansas consumers had higher rates in 43 of the 44 measures of rates over the past 11 years. Residential pays more. Retail pays more. Commercial pays more. Industrial pays more. To the credit of Staff, a report was generated attached to Staff's Post Hearing Legal Brief discussing the rationale for such disparity. The disparity is attributed to the differences in the State law and regulatory policies and the differences in electricity usage patterns. I appreciate Staff's efforts in providing this report. However, I still think it is our obligation to look into these issues further as Kansas consumers and businesses are at a disadvantage. Higher rates discourage economic development in Kansas and impact Kansas family and business budgets.

In addition to overall high rates, KCP&L all-electric consumers were lured into the system for decades with the promise of discounts and then found themselves facing a substantial, 53% increase in the 2010 rate case. Testimony indicates that a past commission made some questionable decisions by way of questionable methods. Enticing people to use electric heat for decades then abruptly changing the system in one rate case is unconscionable. Dr. Glass testified that having the all-electric consumers on the system presumptively provides a benefit, even at the pre-2010 discounted rates. KCP&L has shown tremendous disregard to its all-electric consumers. Nonetheless, taking consumers from pre-2010 discounts, subjecting them to a 53% increase, then back again to pre-2010, is unfathomable as it would create a turbulent system of discontinuance. The answer is not to create policy that whipsaws consumers between two extremes as proposed in this docket. The rational approach would have been to recognize

that policy implemented in the 60's 70's and 80's should gradually transition to a policy that will take us into the next decade.

Legally speaking, I can appreciate the finding that there was no substantial competent evidence submitted on the record to support re-instituting the pre-2010 discounts. What frustrates me is that there was not enough substantial competent evidence submitted on the record to be able to fully weigh the matter at all. The Commission was given a false dilemma; either the status quo or pre-2010 discounts, nothing between. The choice is easy when one isn't supported by substantial competent evidence. This Commission deserved a better opportunity to re-visit the issue in this case and to be able to find alternative measures. The Commission had the status quo forced upon us by the settlement agreement.

We received 861 public comments totaling well over 1,000 pages. Many of which dealt with electric heat rate discounts. It is very unfortunate that their comments had little if any effect on this rate case. One must ask, are we wasting ratepayers' time and giving them false hope that their thoughts and concerns will make a difference? It at least appears it did not in this case. The Kansas Supreme Court requires that the Commission consider and balance the interests of the utility's investors vs. the ratepayers, the present ratepayers vs. the future ratepayers, and the public interest.

Turning to return on equity, testimony supports a range of 8.55 – 10.6%. While KCP&L's suggestion of 10.3% is too high, the low end is not too low. Testimony by Dr. Woolridge and Mr. Gatewood support the fact that certain nationwide trends and the application of certain methodologies can yield an ROE of 8.55%. The record supports this. Given what I believe are the shortcomings in this docket, and the disparity between Kansas and Missouri consumers and the treatment of all-electric consumers, I find that a 9.3% ROE is extremely generous.

In Summation, it seems to me that there is conflict between the Commission being able to carry out our Legislative and Judicial mandates to create just and reasonable rates but are then not provided enough substantial competent evidence to meet the threshold legal evidentiary standard to do so. There is a disparity in rates between KCP&L Kansas consumers and KCP&L Missouri consumers. KCP&L Kansas has some of the highest rates in the region. KCP&L has treated electric-heat consumers callously. I hope this Commission can and will take a closer look, with a renewed perspective, on some of the items I've touched on throughout this docket.

Noting my thoughts on these issues and the whole of this docket, I cannot with good conscious validate the conclusions presented in the Order. I respectfully refrain from approving or supporting this Order and I therefore vote "No."

I ask to have these comments recorded in the minutes of today's meeting.

Commissioner Pat Apple