

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

**In the matter of the Future Supply,)
Delivery and Pricing of the Elec-)
tric Service Provided by Kansas)
City Power & Light Company.)**

EW-2004-0596

MOTION TO DECLASSIFY MATERIALS

COMES NOW PRAXAIR, INC. ("Praxair") and moves that materials provided by Kansas City Power & Light Company ("KCPL") and marked as "Proprietary" or "Highly Confidential" be declassified and in support thereof states:

1. On September 29, 2004, in connection with this workshop proceeding, at KCPL's request the Commission issued a protective order.

2. Pursuant to that protective order, participants in these workshops have submitted non-disclosure agreements and respected the confidentiality of materials designated as "Proprietary" or "Highly Confidential" by KCPL without known challenge.

3. On February 4, 2005, the *Kansas City Business Journal* published an article ("Article") concerning KCPL's proposals. The *Kansas City Business Journal* is a newspaper of general circulation to the public in the Kansas City, Missouri and surrounding area. Its distribution is not limited only to

those persons who have signed a non-disclosure agreement pursuant to the protective order herein.^{1/}

4. According to the Article, the "proposal put forth by KCP&L" includes:

a. Building an 800- to 900- megawatt coal-fired plant near Iatan, MO., 38 miles north of downtown Kansas City;

b. Investment in as much as 200 megawatts of wind power;

c. Environmental upgrades at existing plants of as much as \$350 million so as to "meet emissions standards ahead of schedule";

d. Development of energy conservation programs and technologies.

5. In addition, several persons were quoted that "**their plan** is the right thing for the city," [attributed to Bob Marcusse], that "we have supported **what they are proposing**" [attributed to Jody Craig], and that "[i]t's the right thing to do." [attributed to Lee Derrough].^{2/} Other persons unidentified in the article are stated to have been involved in the planning process.

^{1/} A copy of the *Kansas City Business Journal* article is attached hereto as Exhibit A and incorporated herein by reference.

^{2/} Emphasis added to all quotations.

6. Further, the article states that KCPL "is asking Kansas City-area business and community groups" to "go to bat for the plan itself."

7. None of the persons identified in the Article have submitted and filed non-disclosure agreements under the protective order.

8. If KCPL has made full and complete disclosure to these persons of all the information pertinent to its plans that it continues to maintain is either "Proprietary" or "Highly Confidential," it has thereby disclosed this information to the public domain.

9. It seems unlikely and somehow unreasonable that KCPL would request that these persons make supportive statements and submit supportive communications to the Commission (as is reported in the article) without having made full disclosure to them of the confidential details of its plans that it has thus far wished to keep from public disclosure. If it has done so, then KCPL has made public disclosure of these materials and they are, by definition, no longer entitled to protection as "Proprietary" or "Highly Confidential" materials.

10. It would also seem that selective disclosure of the details of these plans to persons who are supportive of the plans while leaving other participants and the public at large unable to review or comment on the confidential details of these plans is inappropriate and asymmetrical. On the other hand, if

KCPL has not fully disclosed all confidential details of its plans to the persons noted in the Article, it would seem that their statements of support may have been provided upon incomplete or inadequate information and these persons have unwittingly been placed in an uncomfortable position of having announced support for a plan the full confidential details of which they have not seen.

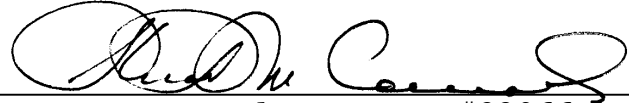
11. As a result, all the materials previously marked as "Proprietary" or "Highly Confidential" should have that designation removed and should be spread of public record together with any previously-designated *in camera* portions of any transcripts of presentations to the Commission.

12. Alternatively, if it still maintains that selected portions of its information are "Highly Confidential" or "Proprietary" and have not been disclosed to the identified individuals, KCPL should be required forthwith to redesignate as "Highly Confidential" or "Proprietary" any such details of its proposed plans that it has not made available to these persons or groups identified in the Article or to any other person or group who has not submitted a non-disclosure agreement pursuant to the protective order but has been solicited by KCPL to "go to bat for the plan."

WHEREFORE materials previously marked as "Proprietary" or "Highly Confidential" in this proceeding should forthwith be declassified and made available to the public.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A handwritten signature in black ink, appearing to read 'Stuart W. Conrad', is written over a horizontal line.

Stuart W. Conrad Mo. Bar #23966
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR PRAXAIR, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means or by U.S. mail, postage prepaid, addressed to the legal representatives of all parties and participants that have been identified as parties and participants on the Commission's EFIS System as of this date.


Stuart W. Conrad

Dated: February 8, 2005

