BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas City Power & Light Company for Approval to Make Certain Changes in its Charges for Electric Service to Begin the Implementation of Its Regulatory Plan	)))))	Case No. ER-2006-0314

Dissenting Opinion of Commissioners
Robert M. Clayton III and Steve Gaw

These Commissioners dissent from the majority's decision. The decision awards KCPL with one of the highest returns on equity (ROE) awarded in the nation, it is contrary to the Regulatory Plan that was earlier agreed to by numerous parties and approved by the Commission, and it under-accounts for the off-system sales historically made by the company. These decisions by the majority cause KCPL customers to pay rates far in excess of that which is just and reasonable.

Prior to this rate case, this Commission entertained a request from KCPL to assist in the financial challenge of building a new coal fired generation unit called Iatan II and improving the environmental performance of the existing unit. Rather than engage in an adversarial contested case, the Commission pursued a more collaborative process. After months of discussions, the Staff of the Commission, Office of the Public Counsel, industrial customers and others entered into a Stipulation and Agreement which was proclaimed as the consensus-produced roadmap to be followed to allow KCPL to proceed toward construction of the plant with protections for ratepayers. One of the principal parts of the plan provided for accelerated depreciation of KCPL plant at a level required to protect KCPL's credit rating.

The Staff of the Commission and consumer advocates believed this methodology was preferable to artificially and arbitrarily raising the ROE for KCPL. This was in part due to the fact that with accelerated depreciation, while consumers would pay higher rates during the early years, they would effectively pay lower rates in the long term. Ratepayers would be made whole for their early contributions over time. In effect, KCPL will be loaned or advanced additional revenues by ratepayers. Raising the ROE, on the other hand, simply increases the amount consumers will pay and, in turn, increase the revenues of the company. By choosing that alternative, ratepayers never receive any benefit for this increased contribution. A statutory prohibition enacted by initiative petition precludes the company from collecting revenues for construction work in progress. There is a question as to whether the attempts to avoid this provision could be declared unlawful.

By granting a return of 11.25% in this case, the majority has in effect repudiated the agreement struck by the parties in the regulatory plan. The majority is giving KCPL what it sought in open negotiations, but which was ultimately conceded in the final regulatory plan. The majority has essentially provided further protection, some would argue excessive protection, to its Commission-approved agreement. Why the majority would award such generosity at the expense of consumers is a mystery.

The majority further raises rates on KCPL customers by failing to give consumers full credit for the company's off-system sales. The majority significantly lowered the amount of off-system sales revenues that are used to offset KCPL's cost of service. KCPL has done very well in maximizing profits from extra capacity on its system. Ratepayers have funded all of the costs of KCPL's generating units and deserve 100% of the estimated profits from off-system sales as determined from historical numbers. Based on the majority's decision, it appears that consumers

will be short changed. Additionally, the method used appears to provide for a tracking of off-system sales. Two issues arise from this untested methodology. If the tracking mechanism allows for consumers to recoup money for off-system sales greater than that set in base rates, then, on the surface (intergenerational inequities aside), ratepayers could be made whole. However, the arrangement potentially provides for a lessened financial incentive to make beneficial off-system sales. Another consideration is, if off-system sales are merely tracked for purposes of setting rates in the next case, then consumers are significantly damaged by the underestimation of off-system sales.

KCPL should be recognized for its proactive, collaborative approach in dealing with the latan II project and its other environmental improvements. The work of all parties in the regulatory plan case as well as the subsequent negotiations, which included the Sierra Club, while the case was on appeal, should be commended. However, the actions of the majority in this rate case undercut the previous efforts of parties in the Commission-approved regulatory plan. Further, it sends the wrong signal about the Commission's commitment to such plans in the future. It would be interesting to see the reactions of the utility and credit rating agencies if the commission had repudiated the regulatory agreement in the opposite direction by granting a lower, more appropriate ROE and refusing to allow accelerated depreciation. Consistency in follow-up to long-term regulatory plans may not be legally required, but it can be important in evaluating regulatory risk which is one of the principal reasons for the regulatory plan to begin with.

Overall, the deal struck by consumer representatives in the regulatory plan case was renegotiated by the Commission itself in this rate case to consumers' detriment. This coupled

with higher rates from the underestimation of off-system sales result in unjust and unreasonable rates.

Therefore, these Commissioners must dissent.

Respectfully Submitted,

Robert M Clayton, III
Commissioner

Steve Gaw
Commissioner

Dated at Jefferson City, Missouri,
on this 18th day of September, 2007.