

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)
Kansas City Power and Light Company)
for Approval to Make Certain Chang-) ER-2009-0089
es in its Charges for Electric)
Service To Continue the Implementa-)
tion of Its Regulatory Plan)

In the Matter of the Application of)
KCP&L Greater Missouri Operations)
Company for Approval to Make Cer-) ER-2009-0090
tain Changes in its Charges for)
Electric Service)

In the Matter of the Application of)
KCP&L Greater Missouri Operations)
Company for Approval to Make Cer-) HR-2009-0092
tain changes in its Charges for)
Steam Heating Service)

OBJECTION TO AFFIDAVIT

COME NOW Praxair, Inc, Midwest Energy Users' Associa-
tion, Wal-Mart Stores, Inc., Sedalia Industrial Energy Users'
Association, Ag Processing, Inc., a cooperative, (collectively
"Objecting Parties"), and for their Objection to Affidavit re-
spectfully state as follows:

1. On March 2, 2009, Kansas City Power & Light Co.,
and KCPL Greater Missouri Operations Company ("GMO," formerly
Aquila) filed a Status Report and Motion with the Commission
seeking, *inter alia*, to extend the "in service" date for the
Iatan 1 project.

2. Attached to that filing was an affidavit from
Michael Cline, a KCPL management official.

3. Section 536.070 provides strict procedures to be followed in "any contested case." The provisions of Chapter 536 apply to Commission proceedings.^{1/}

4. Section 536.070(12) governs the use of "an affidavit in evidence" and provides the parties with the ability to object to the receipt of any affidavit into evidence.

Not later than seven days after such service, or at such later time as may be stipulated, any other party (or, in a proper case, the agency) may serve on the party or the agency who served such affidavit an objection to the use of the affidavit of some designated portion or portions thereof on the ground that it is in the form of an affidavit. . . . If such objection is so served, the affidavit of the part thereof to which objection was made, may not be used except in ways that would have been permissible in the absence of this subdivision.

That statutory section also provides that "[n]othing herein contained shall prevent the cross-examination of the affiant."

5. The Objecting Parties, pursuant to the rights guaranteed by Section 536.070(12) hereby object to the receipt of the affidavit of Mr. Cline. Furthermore, the Objecting Parties hereby notify the Commission of their desire to exercise their right to cross-examine Mr. Cline as provided by Section 536.070(12).

^{1/} See, *State ex rel. Noranda Aluminum v. Public Service Commission*, 24 S.W.3d 243 (Mo.App.W.D. 2000); *Utility Consumers Council v. Public Service Commission*, 562 S.W.2d 688 (Mo.App.E.D. 1978); *State ex rel. GS Technologies Operating Co. v. Public Service Commission*, 116 S.W.3d 680 (Mo.App.W.D. 2003); *Environmental Utilities, LLC. v. Public Service Commission*, 2007 Mo.App. Lexis 533 (Mo.App.W.D. 2007).

WHEREFORE, the Objecting Parties respectfully inform the Commission of their objection to the affidavit of Mr. Cline and their intent to cross-examine Mr. Cline on the contents of his affidavit.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

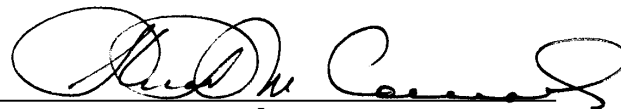


Stuart W. Conrad MBE #23966
David L. Woodsmall MBE #40747
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR Praxair, Inc., Mid-
west Energy Users' Association,
Wal-Mart Stores, Inc., Sedalia
Industrial Energy Users' Associa-
tion, Ag Processing, Inc., a coop-
erative

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by e-mail, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

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

Stuart W. Conrad

Dated: March 5, 2009