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 Changes in its Charges for Electric Service to Continue the Implementation of its Regulatory Plan.	)))))	**Case No. ER-2009-0089** Tariff No. JE-2009-0192
In the Matter of the Tariff Filing of Aquila, Inc. d/b/a KCP&L Greater Missouri Operations Company, to Implement a General Rate Increase for Retail Electric Service Provided to Customers in its Missouri Service Areas it formerly served as Aquila Networks—MPS and Aquila Networks—L&P.	)))))))	**Case No. ER-2009-0090** Tariff No. JE-2009-0913
In the Matter of the Tariff Filing of Aquila, Inc. d/b/a KCP&L Greater Missouri Operations Company, to Implement a General Rate Increase for Retail Steam Heating Service Provided to Customers in its Missouri Service Area it formerly served as Aquila Networks—L&P.	))))))	**Case No. HR-2009-0092** Tariff No. YH-2009-0195

STAFF'S RESPONSE TO KCP&L'S AND KCP&L-GMO'S MOTION FOR RECONSIDERATION AND/OR REHEARING OF ORDER MODIFYING PROCEDURAL SCHEDULES AND FOR TRUE-UP PROCEEDINGS AND MOTION FOR EXPEDITED TREATMENT AND STAFF MOTION FOR LEAVE TO LATE-FILE

Comes now the Staff of the Missouri Public Service Commission (Staff) in response to Kansas City Power & Light Company's (KCP&L) and KCP&L Greater Missouri Operations Company's (KCP&L-GMO) Motion For Reconsideration And/Or Rehearing Of Order Modifying Procedural Schedules And For True-Up Proceedings And Motion For Expedited Treatment. KCP&L and KCP&L-GMO (Companies) have rejected the Staff's Secondary Recommendation in their Motion For Reconsideration And/Or Rehearing filed on March 18,

2009. Therefore, the Staff's recommendation to the Commission is for a true-up period ending March 31, 2009 without any later isolated adjustments, which is the Staff's Primary Recommendation, and denial of the proposals in the Companies' March 2, 2009 Motion To Extend Period To Demonstrate Compliance With Certain In Service Criteria for the new air quality control system (AQCS) on Iatan 1 until April 30, 2009. The Staff is also requesting leave to late-file the instant response. In support thereof, the Staff states as follows:

True-Up Options Pending Before The Commission

1. Although the Companies, KCP&L and KCP&L-GMO, notified the Commission on January 20, 2009 that they would not avail themselves of the opportunity the Commission gave them in its November 20, 2008 *Order Setting Procedural Schedules* to, by that date, request the Commission to extend the true-up period, suspend the tariffs and alter the procedural schedules from the March 31, 2009 end of true-up and August 5, 2009 contemplated tariff sheets effective date ordered, on March 2, 2009 the Companies effectively requested the Commission to extend the true-up period for the AQCS at Iatan 1 until April 30, 2009.

2. In particular, on March 2, 2009 in their Status Report And Motion To Extend Period To Demonstrate Compliance With Certain In-Service Criteria, the Companies requested the Commission to "extend until April 30, 2009 the deadline for demonstrating that the AQCS [(air quality control system)] equipment satisfies the technical in-service criteria," but make no other changes to the ordered procedural schedules. If the Commission rejected that request, they alternatively requested the Commission to "amend the procedural schedules by extending the 'End of True-Up Period' until April 30, 2009, and similarly extending by approximately one month the dates provided in the procedural schedule related to the True-Up Proceeding beginning with the 'Closed Book True-Up Data Date' and continuing through to 'Effective Date

for Tariffs,'" but make no changes to the previously scheduled dates for Evidentiary Hearings, Initial Post Hearing Briefs, Reply Briefs, and Proposed Findings of Fact and Conclusions of Law. The Companies further stated that "in the event that the Commission adopts the Companies' alternative proposal discussed in paragraph 8, then the Companies would voluntarily extend the effective date of their tariffs implementing the new rates until September 5, 2009."

3. As the Staff noted in its March 6, 2009 response to that March 2, 2009 Motion To Extend Period To Demonstrate Compliance With Certain In-Service Criteria, the Companies are requesting an isolated adjustment beyond the true-up date of March 31, 2009, for their improvements to Iatan 1, if the improvements meet the Staff's in-service criteria by April 30, 2009, or, as a secondary alternative, an extension of the true-up date to April 30, 2009.

4. However inartfully the Staff may have couched the March 6, 2009 Staff's Response To The Status Report And Motion To Extend Period To Demonstrate Compliance With Certain In-Service Criteria of the Companies, the Staff's Primary Recommendation was that the Companies' March 2, 2009 Motion To Extend Period To Demonstrate Compliance With Certain In-Service Criteria be denied, and the Staff's Secondary Recommendation was that, if the Companies' Motion was granted, the grant be conditioned by including a condition that the Companies agree that the Iatan I costs that exceed the base costs, i.e., the definitive estimate, will be included in rates interim subject to refund based on a true-up of costs in the Companies' next electric rate cases.

5. By its March 18, 2009 Order, the Commission has afforded the Companies the opportunity to indicate whether they will accept the conditions recommended by the Staff as the Staff's Secondary Recommendation (except for "c"), in particular, the condition that Iatan costs that exceed the base costs will be included in rates on an interim basis subject to refund based on

a true-up of costs in the Companies' next electric rate cases.

6. By their March 19, 2009 Motion For Reconsideration And/Or Rehearing the Companies make it clear they will not agree to that condition, or any other condition the Staff recommended, and, therefore, the Staff recommends the Commission adopt the Staff's Primary Recommendation to leave the schedule as ordered on November 20, 2008, i.e., deny the Companies' Motion filed on March 2, 2009 to extend the period to April 30, 2009 for them to demonstrate compliance with in-service criteria for the improvements at Iatan 1.

***State ex rel. Public Counsel v. Public Serv. Comm'n*, 236 S.W.3d 632 (Mo.banc 2007)**

7. The Commission's *Order Modifying Procedural Schedules For True-Up Proceeding And Formally Adopting Test Year And Update Period* issued on March 18, 2009 states at ordered item 6, on page 7: "6. This order shall become effective immediately upon issuance."

8. Even though the Commission's March 18, 2009 *Order* is interlocutory, and as a consequence judicial review is limited,[1] the Staff will note *State ex rel. Public Counsel v. Public Serv. Comm'n*, 236 S.W.3d 632 (Mo.banc 2007)(hereinafter referred to as *Empire*), of which the Commission likely needs not be reminded. In the *Empire* case, the Commission issued an *Order* approving tariff sheets, objected to by Public Counsel, effectuating a general rate increase to which Public Counsel had one hour and 20 minutes to file an application for rehearing. The March 18, 2009 Order at issue does not authorize any tariffs to go into effect, and even though the Commission has constructively afforded KCP&L and KCP&L-GMO reconsideration / rehearing of the Commission's March 18, 2009 *Order* by issuing its March 19, 2009 *Order Establishing Time For Response*, the Commission may want to now make its March 18, 2009

[1] *State ex rel. Southwestern Bell Telephone Co. v. Public Serv. Comm'n*, 592 S.W.2d 184 (Mo.App. W.D. 1979); *State ex rel. Southwestern Bell Telephone Co. v. Public Serv. Comm'n*, 645 S.W.2d 44, 49-51 (Mo.App. W.D. 1983).

Order effective on some date several days after KCP&L's and KCP&L-GMO's March 19, 2009 filing.

Test Periods And Adjustments For Known and Measurable Changes Are Factual Determinations

9. The Western District Court of Appeals in *State ex rel. GTE North, Inc. v. Public Serv. Comm'n*, 835 S.W.2d 356 (Mo.App. W.D. 1992) held that (a) test periods and adjustments thereto for known and measurable changes are factual questions resting in the expert discretion of the Commission (*Id*. at 370), (b) the choice of method to adjust the test year for known and measurable changes rests in the expert discretion of the Commission, and the Court will not dictate the choice of method to the Commission (*Id*.), and (c) it makes sense for the Commission to be allowed flexibility in order to establish the best possible data to be analyzed for its predictions to achieve a degree of accuracy, such that the Commission may use different formulas/approaches in different cases (*Id*. at 371-72), but (d) there is a minimum requirement that the evidence as explained by the witnesses and the Commission make sense to the reviewing court (*Id*. at 370). Ratemaking is an inexact science. The courts have held that it is the impact of the rate order which counts; the methodology is not significant. 835 S.W.2d at 371; *State ex rel. Arkansas Power & Light Co. v. Public Serv. Comm'n*, 736 S.W.2d 457, 462 (Mo.App. W.D. 1987).

Staff Proposals In Its March 6, 2009 Filing

10. There may be some question whether the Commission in its March 18, 2009 *Order* besides rejecting the Staff's suggestion "c," adopted or did not adopt what the Staff proposed in suggestion "b" of Staff's Secondary Recommendation in Staff's Response To The Status Report And Motion To Extend Period To Demonstrate Compliance With Certain In-Service Criteria Of Kansas City Power & Light Company And KCP&L Greater Missouri

Operations Company, which Staff filed on March 6, 2009. The Staff bold faces below five words in its Secondary Recommendation, from pages 2-3 and 20 of Staff's March 6, 2009 filing:

> Page 2 of the Staff's March 6, 2009 Response: If the Commission determines to allow Iatan 1 improvements as an isolated adjustment after March 31, 2009 or extend the true-up date to April 30, 2009, Staff secondarily recommends the **Commission impose** the conditions following:
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> Page 20 of the Staff's March 6, 2009 Response: . . . While Staff recommends the Commission not modify the procedural schedules in these cases, should the Commission determine to allow the Iatan 1 environmental improvements as an isolated adjustment after March 31, 2009 or extend the true-up date to April 30, 2009, Staff recommends the **Commission impose** the following conditions on that relief:
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> Pages 2-3 and 20 of the Staff's March 6, 2009 Response:
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> a) Extend the target new tariff rate sheets effective date to September 5, 2009
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> b) **Agreement of Companies** that Iatan 1 costs that exceed the base costs will be included in rates interim subject to refund based on a true-up of costs in Companies' next electric rate case;
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> c) To the extent Companies are shown to have overstated Iatan 1 costs authorized as of April 30, 2009, then if any of those overstated costs are subsequently found to be imprudent, the Companies will be deemed to have violated the Commission's order in Case No. ER-2009-0089.
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> d) Depreciation reserve attributable to Iatan 1 accrued post March 31, 2009 be included in setting rates;
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> e) Deferred income tax reserve attributable to Iatan 1 accrued post March 31, 2009 be included in setting rates;
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> f) Environmental credits for energy production from Iatan 1 be applied as an offset to the Iatan 1 plant balance;
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> g) The value of power generated by Iatan 1 net of variable costs be credited to the costs to be placed in service.

11. By this bold face language, the Staff meant in its March 6, 2008 filing that in order for the Commission to allow the Iatan 1 environmental improvements as an isolated adjustment after March 31, 2009 or the extension of the true-up date to April 30, 2009, KCP&L and KCP&L-GMO must agree that Iatan 1 costs that exceed the base costs (definitive estimate)

will be included in KCP&L's and KCP&L-GMO's rates interim subject to refund based on a true-up of costs in KCP&L's and KCP&L-GMO's next electric rate cases. If KCP&L and KCP&L-GMO are not willing to so agree, then Iatan 1 environmental improvements should not be allowed as an isolated adjustment after March 31, 2009, nor should the true-up be extended to April 30, 2009. Clearly, the Companies in their March 19, 2009 Motion For Reconsideration And/Or Rehearing have rejected the Staff's Secondary Recommendation so the Staff's Primary Recommendation is the only Staff proposal that remains.

12. Of course, agreement by the Companies that Iatan 1 costs above the definitive estimate are recovered interim subject to refund until the Companies' next rate cases would address the Companies assertions that (a) collecting rates interim subject to refund is unlawful in general and (b) flowing/crediting funds to ratepayers constitutes retroactive ratemaking in particular. The Companies in their March 19, 2009 Motion For Reconsideration And/Or Rehearing state in paragraph 8 at page 6 that the Companies' legal position is addressed in the rebuttal testimony of Mr. Chris Giles (who is not an attorney) and that the Companies intend to fully brief this issue in these cases. The Companies then repeat the legal argument that is in Mr. Giles rebuttal testimony.

13. Regarding the Staff's position that the Companies can file for interim rate relief for Iatan 1 on the basis that Case Nos. ER-2009-0089 and ER-2009-0090 are not the Iatan 1 cases for the Companies because the Iatan 1 environmental improvements are not "fully operational and used for service" by March 31, 2009 and cannot be audited within the confines of the March 31, 2009 true-up, the Companies incorrectly state at paragraph 9, page 6 of their March 19, 2009 Motion For Reconsideration and/Or Rehearing that by statute an interim rate increase may be requested by a utility only where a showing of emergency need exists. The

Companies stated as follows in their filing:

> By statute, an interim rate increase may be requested by a utility where an emergency need exists.[9] The Iatan 1 Cost Condition is contrary to Missouri law in that the Companies did not request interim rates and no showing of emergency need has been made.[10] In the past, the Commission has indicated that its discretionary authority to grant interim relief is based upon its finding that there is a threat to safe and adequate service or the financial integrity of the utility.[11] In Case No. ER-81-42, *In re Kansas City Power & Light Co*. (Mo. P.S.C., 1980), the Commission interpreted the Laclede case and determined that the appropriate method for filing a request for interim relief is the filing of interim tariffs, as a separate case, under the file and suspend method. . . .

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9 *See* Section 393.150 RSMo. *See also*, *State ex rel. Utility Consumers Council of Missouri Inc. v. Public Serv. Comm'n*, 585 S.W.2d 41, 48 (1979) ("*UCCM*"); *State ex rel. Laclede Gas Co. v. Public Serv. Comm'n*, 535 S.W.2d 561, 568 (Mo. App. 1976) ("*Laclede*").

10 Staff also appears to recognize that the Companies' agreement is necessary for the Commission to order interim rates subject to refund. Staff's proposed version of the condition reads "Agreement of the Companies that Iatan 1 costs exceed the base costs will be included in rates interim subject to refund based on a true-up of costs in Companies' next electric rate case." Staff's March 6 Response, at pp. 2 and 20 (emphasis added).

11 *See* Case No. WR-92-881, *In re Raytown Water Co*. (Mo. P.S.C., 1991).

14. In the *Laclede* case, the question of whether an interim rate increase should have been granted, pending determination of whether a permanent rate increase should be allowed, came before a Missouri appellate court for the first time. The Court in *Laclede,* noting that "[i]n its very nature, an interim rate request is merely ancillary to a permanent rate request,"[2] held that the Commission's interim rate authority exists within the broad discretion implied from the Missouri file and suspend statutes and from the practical requirements of utility regulation. 535 S.W.2d at 565, 567. The Court in *Laclede* also stated that a future applicant may be able to prove that its rate structure has become unjustly low without any emergency as defined by the Commission, but Laclede had failed to do so in the *Laclede* case. The Court specifically stated as follows:

> . . . in the *Missouri Power & Light Co*. case, No. 17,815 (1973), the Commission found it appropriate to grant an interim rate increase to halt a deteriorating

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2 In *State ex rel. Fischer v. Public Serv. Comm'n*, 670 S.W.2d 24, 27 (Mo.App. W.D. 1984), the Court held that "the interim rate case in issue, although assigned a different number from that assigned the permanent case by the Commission, has no independent status but is simply a part of the company's permanent rate request."

financial situation which "constituted a threat to the company's ability to render adequate service."

The very real necessity of recognizing such a power in the regulatory agency has long been recognized by courts throughout the country. . . . numerous cases from diverse jurisdictions have recognized and given effect to such an implied power even in the absence of specific statutory authority . . . . [1]

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[1] A somewhat analogous question is whether the Commission has authority to grant interim test or experimental rates. The Missouri Supreme Court has long held that the Commission does have this power as a matter of necessary implication from practical necessity. *State ex rel. Watts Engineering Co. v. Public Service Commission*, 269 Mo. 525, 191 S.W. 412 (banc 1917); *State ex rel. Washington University v. Public Service Commission*, 308 Mo. 328, 272 S.W. 971 (banc 1925); *State ex rel. City of St. Louis v. Public Service Commission*, 317 Mo. 815, 296 S.W. 790 (banc 1927); *State ex rel. McKittrick v. Missouri Public Service Commission*, 352 Mo. 29, 175 S.W.2d 857 (banc 1943).

* * * *

We hold that the Commission has power in a proper case to grant interim rate increases within the broad discretion implied from the Missouri file and suspend statutes and from the practical requirements of utility regulation.

535 S.W.2d at 566-67.

* * * *

It may be theoretically possible even in a purposefully shortened interim rate hearing for the evidence to show beyond reasonable debate that the applicant's rate structure has become unjustly low, without any emergency as defined by the Commission having as yet resulted. Although some future applicant on some extraordinary fact situation may be able to succeed in so proving, Laclede has singularly failed in this case to carry the very heavy burden of proof necessary to do so.

Id. at 574.

12. As seen above, the Companies' in their March 6, 2009 Motion For Reconsideration and/Or Rehearing, disparagingly noted *Re Kansas City Power & Light Co*., Case No. ER-81-42, Order Dismissing Motion For Interim Relief, 24 Mo.P.S.C.(N.S.) 50 (September 18, 1980). Nonetheless, KCP&L knew how to successfully file an interim rate increase case prior to its failed attempt in Case No. ER-81-42 for KCP&L did so previously in Case No. ER-80-204. *See Re Kansas City Power & Light Co*., Case No. ER-80-204, Report And

Order, 23 Mo.P.S.C.(N.S.) 413, 413-19 (1980). In the 1980 Order Dismissing Motion For Interim Relief in Case No. ER-81-42, the Commission related that on August 6, 1980 KCP&L filed revised tariffs reflecting increased permanent rates for electric service designed to increase gross annual Missouri retail electric service revenues by approximately $45.4 million. At the same time KCP&L filed a Motion For Immediate Suspension And Interim Rate Relief, attached to which, as an exhibit, were revised tariff sheets, bearing no effective date, designed to increase gross annual Missouri retail electric service revenues by approximately $28.1 million on an interim basis, pending final Commission action on the permanent rate increase request. KCP&L's Motion For Immediate Suspension And Interim Rate Relief alleged that the rate levels which were set by the Commission's Report And Order in Case No. ER-80-48, issued June 19, 1980 and effective on July 2, 1980, were confiscatory because they excluded certain costs being incurred by KCP&L, namely, the costs of Iatan 1, certain fuel related expenses, and contributions to the Electric Power Research Institute (EPRI). The Commission excluded Iatan 1 from KCP&L's rate base in Case No. ER-80-48 on the basis that it constituted excess capacity. *Re Kansas City Power & Light Co*., Case No. ER-80-48, Report And Order, 23 Mo.P.S.C.(N.S.) 474, 480-87 (1980). KCP&L contended that a heat wave the very summer of 1980, during which it needed its share of Iatan 1 on every day from June 21 through July 19, except for July 3 and 4, showed KCP&L's need for Iatan 1. First, the Commission held that KCP&L's interim rate relief filing in Case No. ER-81-42 was not in proper form. 24 Mo.P.S.C.(N.S.) at 52. Then, the Commission held that "[s]everal weeks of extraordinarily hot temperatures in the summer of 1980 were not a sufficient changed circumstance or condition" regarding Iatan 1, and KCP&L's Motion For Immediate Suspension And Interim Rate Relief did not allege any change in circumstances regarding fuel costs or EPRI contributions from the date of the issuance of the

Commission's Report And Order in Case No. ER-80-48. *Id*. at 54. The Commission noted that there was credence to the Staff's allegation that KCP&L's Motion For Immediate Suspension And Interim Rate Relief was actually a second Application For Rehearing of Case No. ER-80-48.

15. KCP&L and KCP&L-GMO contend at paragraph 8, page 6 of their Motion For Reconsideration And/Or Rehearing that "it is beyond the Commission's statutory authority to impose interim rates, and any refund mechanism would constitute retroactive ratemaking, which is prohibited under Missouri law." First, as previously stated, the Staff's Secondary Recommendation, which involves interim rates, requires the agreement of the Companies. The Staff notes that once a fund is established into which monies are paid and from which appropriate disbursements can be made, the issue of retroactive ratemaking is resolved. *See State ex rel. Monsanto Co. v. Public Serv. Comm'n*, 716 S.W.2d 791 (Mo. banc 1986).

Also for the record, it should be noted that in the past KCP&L has agreed to interim rates in an interim rate case and in forecasted fuel cases. When increases in fuel costs due to inflation were a major concern in the late-1970's and the early- to mid-1980's, "forecasted fuel" was a mechanism developed to address the inability to utilize a fuel adjustment clause (FAC) due to the Missouri Supreme Court's decision in the 1979 Utility Consumers Council of Missouri, Inc. case concerning the Commission's acceptance of FACs (hereinafter *UCCM* case). The forecasted fuel mechanism used in the 1980's was in each instance initiated in the context of an electric utility's general rate increase case when all other relevant factors were also reviewed and considered.

In *Re Kansas City Power & Light Co.*, Case No. ER-82-66, 25 Mo.P.S.C.(N.S.) 229, 245 (1982), KCPL filed revised electric tariff sheets on August 26, 1981, and the Staff,

Public Counsel and KCPL entered into a Stipulation And Agreement on the issue of "forecasted fuel." The revenue requirement associated with forecasted increases in the prices of delivered coal and natural gas was forecasted to October 31, 1982, three months beyond the operation-of-law date of the rate case, and was collected interim, subject to refund. The Stipulation And Agreement provided that if it was determined that KCPL had undercollected, KCPL could not recover the undercollection, but if it was determined that it had overcollected, it would refund to ratepayers with interest at the authorized overall rate of return set in Case No. ER-82-66 by the Commission. *Id.* at 245-47. *See also Re Kansas City Power & Light Co.*, Case No. EO-83-9, 25 Mo.P.S.C.(N.S.) 460, 460-62 (1982)(KCP&L's coal and natural gas prices exceeded those forecasted by the Stipulation And Agreement, therefore, no refund was required).

The Public Counsel either joined in stipulation and agreements on forecasted fuel or did not oppose them until the KCP&L rate increase case in 1983. Public Counsel opposed the forecasted fuel Stipulation And Agreement entered into by the Staff and KCP&L in *Re Kansas City Power & Light Co.*, Case No. ER-83-49, Report And Order, 26 Mo.P.S.C.(N.S.) 104, 127 (1983). Pursuant to the Commission's Report And Order in Case No. ER-83-49, KCP&L received an allowance in rates interim, subject to refund of $4,250,000 on an annual basis derived from forecasted fuel prices for a period beyond the operation-of-law date. The actual expense for coal was approximately $99,343 above forecast, and the actual expense for natural gas was approximately $1,419,782 below forecast due to an unexpected reduction in natural gas prices. The Commission ordered KCP&L to refund to its customers $1,320,439 on an annualized basis. *Re Kansas City Power & Light Co.*, Case No. EO-84-4, Report And Order, 26 Mo.P.S.C.(N.S.) 531, 531-38 (1984). The Public Counsel raised on a writ of review to Cole County Circuit Court forecasted fuel among a number of issues. After a change in the Public

Counsel occurred, the case was not prosecuted by the new Public Counsel, and the case was eventually dismissed by the Cole County Circuit Court for want of prosecution.

The Commission, not the Staff, chose to discontinue use of the forecasted fuel mechanism in the Kansas City Power & Light Company-Wolf Creek rate case in 1986, stating, in part, as follows:

> A joint recommendation was submitted by Staff and Company which sets forth the incremental portion of fuel expense to be included in the rates established in this case.. . . . The portion of rates which is based upon the additional revenue requirement associated with forecasted increases in the prices of coal and gas (unless it was excluded under paragraph 2 of the joint recommendation) will be subject to true-up (rate reduction) and refund. . . .
>
> Public Counsel opposes the joint recommendation and believes the Commission should deny any increment to the Company's fuel expense which is related to forecasted fuel. . . . . Public Counsel maintains that the Commission should no longer engage in a forecasted fuel procedure which allows a utility to change its rates after the operation of law date with consideration given to only one of several factors affecting those rates; i.e.: fuel costs.
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> . . . . The Commission finds the allowance of forecasted fuel is an extraordinary remedy for highly inflationary times which protects the Company from paying costs which are beyond its control.
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> The Commission finds that low inflation rates and stabilizing fuel prices indicate there is no need for forecasted fuel in the instant case. . . .
>
> * * * *
>
> The Commission does not mean to infer by this decision that it will abandon forecasted fuel as a matter of regulatory policy. The Commission finds a fuel forecast is unnecessary based upon the facts of this case.

Re Kansas City Power & Light Co., Case No. EO-85-185 and EO-85-224, 28 Mo.P.S.C.(N.S.) 228, 403-04 (1986).

Transparency And GPE And KCP&L

16. Finally, the Staff would note the Companies' request at paragraph 19, pages 13-14 of their Motion For Reconsideration And/Or Rehearing that the Commission resolve this matter

on an expedited basis so that the parties will know the parameters of the true-up proceeding as soon as possible. On March 18, 2009, Great Plains Energy Incorporated (GPE) and KCP&L made a Form 8-K filing with the U.S. Securities and Exchange Commission (SEC) respecting the Commission's Order issued earlier that day. GPE and KCP&L, among other things, did not note that KCP&L and KCP&L-GMO had offered to move the effective date of their proposed tariffs to September 5, 2009 from August 5, 2009. The GPE and KCP&L Form 8-K filing states in part as follows:

> On March 18, 2009, **the Missouri Public Service Commission** (the "MPSC") **issued an order** in the pending KCP&L and GMO rate cases **moving the expected effective date of the MPSC's orders in these cases from August 5, 2009 to September 5, 2009.** Great Plains Energy and KCP&L will evaluate potential alternatives to mitigate the financial impacts of this delay. However, there is no assurance that these impacts can be wholly or partially mitigated, and they could have a significant adverse effect on Great Plains Energy's and KCP&L's results of operations.
>
> The order also contained certain conditions regarding adjustments to reserves and rate base amounts associated with Iatan Unit No. 1, as well as including a portion of Iatan Unit No. 1 costs in rates on an interim basis, subject to refund, pending a true-up of costs in KCP&L's and GMO's next Missouri rate cases. The order does not provide sufficient detail for Great Plains Energy or KCP&L to reasonably quantify the impact of these conditions. **KCP&L and GMO** believe that the MPSC exceeded its authority in establishing these conditions in a procedural order, and **will seek** rehearing and/or **judicial review to remove or clarify these conditions**. . . .

17. The Staff requests leave to late-file the instant Response. Undersigned counsel apologizes for any inconvenience the delay in filing this Response has caused or will cause the Commissioners and the Regulatory Law Judge. The press of Commission business in these and other Commission cases prevented the filing of this pleading on a timely basis.

Wherefore for the above stated reasons, the Staff recommendation to the Commission is for a true-up period ending March 31, 2009 without any later isolated adjustments, i.e., the adoption of the Staff's Primary Recommendation, and denial of the Companies' March 2, 2009

Motion To Extend Period To Demonstrate Compliance With Certain In Service Criteria, since the Companies, KCP&L and KCP&L-GMO, have rejected the Staff's Secondary Recommendation in their Motion For Reconsideration And/Or Rehearing filed with the Commission on March 18, 2009, and the Staff requests leave to late-file the instant Response.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 24th day of March 2009.

/s/ Steven Dottheim