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Witness: Robert J. Hix
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Sponsoring Party: City of Kansas City, Missouri
Case No.: EM-2007-0374
Date Testimony Prepared: October 10, 2007

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.: EM-2007-0374

REBUTTAL TESTIMONY

OF

ROBERT J. HIX

ON BEHALF OF

CITY OF KANSAS CITY, MISSOURI

**Kansas City, Missouri
October 2007**

In the Matter of the Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc. for Approval Of the Merger of Aquila, Inc. with a Subsidiary of Great Plains Energy Incorporated and for Other Related Relief)))))) Case No. EM-2007-0374

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

1. My name is Robert J. Hix. I work in Denver, Colorado, and I am employed as Consultant by Kamlet Shepherd and Reichert, LLP, attorneys for the City of Kansas City.
2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony on behalf of City of Kansas City, Missouri consisting of ten pages, plus Appendix A, having been prepared in written form for introduction into evidence in the above-captioned docket.
3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.

Robert J. Hix

Subscribed and sworn before me this 10th day of October, 2007.

Notary Public

(SEAL)

My Commission expires: 9-6-09

REBUTTAL TESTIMONY

OF

ROBERT J. HIX

Case No. EM-2007- 0374

INTRODUCTION

Please state your name and business address.

My name is Robert J. Hix. My business address is 10555 W. 78th Avenue, Arvada, Colorado 80005.

By whom and in what capacity are you employed?

I am an independent consultant in utility regulation, policy and operations. I have been retained by the law firm of Kamlet Shepherd & Reichert, LLP on behalf of the City of Kansas City, a party to this proceeding.

What are your responsibilities in this role?

My role began as an advisor to Kamlet Shepherd in reviewing the case filed by Joint Applicants Great Plains Energy Incorporated (“Great Plains”), Kansas City Power & Light (“KCPL”) and Aquila, Inc. (“Aquila”). Subsequent to my review of testimony and discovery responses, we decided that I should submit this testimony on behalf of the City of Kansas City.

Please describe your education, experience and employment history.

I have spent most of my working life in utility regulation as a regulator, advocate and consultant. A complete resume is attached to my testimony at Appendix A.

1 My employment in utility operations began in September 1971 and continued in some
2 fashion for the last thirty-six years. I worked in various capacities for a large combined
3 electric and natural gas company in Colorado from September 1971 through November 1983.
4 In December 1984, I became the senior technical expert witness for the newly formed
5 Colorado Office of Consumer Counsel. In May 1994, I was confirmed as the Chairman of
6 the Colorado Public Utilities Commission. Upon completion of my two terms on the
7 Commission, I left state service in May of 2001. I joined a Boston-based energy consulting
8 firm in August 2001 and opened a western office near Denver, Colorado. I left the
9 consulting firm in March 2004 when I accepted a position as with Xcel Energy as Director,
10 Regulatory & Strategic Analysis. In June 2006, I retired from Xcel Energy and joined the
11 ranks of the citizenry. In January 2007, I began accepting invitations for occasional
12 consulting projects in the arena of regulatory policy and operations.

13 **Have you previously testified before the Missouri Public Service Commission**
14 **("Commission") or before any other utility regulatory agency?**

15 Yes. While employed by the Colorado Office of Consumer Counsel, Xcel Energy and
16 consulting, I testified numerous times before the Colorado PUC and Wyoming PSC in the
17 areas of electric, natural gas and telecommunications engineering, pricing and rate design
18 matters. Additionally, I have appeared before the Federal Energy Regulatory Commission.

19 **PURPOSE OF TESTIMONY**

20 **Please describe the purpose of your testimony.**

21 My testimony will provide a general critique of the Joint Application for Merger.

22 Additionally, I will suggest regulatory treatments for the merged entity going forward. My

1 bottom line is that, in order for the merger to be in the public interest, it should be
2 conditioned so that the consumers of KCPL have assurances of pass through of cost savings
3 and improved customer care. In my opinion, with these conditions in place, this merger will
4 be in the public interest and should be approved by the Commission.

5 **CRITIQUE OF THE MERGER**

6 **What are some of your concerns with the merger proposal of KCPL?**

7 The merger proposal has several weaknesses that the Commission should address prior to
8 approving the application. One of the findings that the Commission may require is the
9 determination that the merger is “not detrimental to the public interest.” At present, the
10 proposal of KCPL lacks specificity regarding rate integration, system integration, customer
11 service integration and a commitment, with some teeth in it, to compensate customers if
12 certain service quality standards aren’t maintained or improved as a result of the merger.
13 Additionally, KCPL should commit to an Earnings Sharing Mechanism that timely returns
14 excess earnings above an authorized level to customers.

15 **Please comment further on the topic of rate integration.**

16 While KCPL has touched on the topic of rate integration in its testimony and responses to
17 discovery, its proposal lacks details and discussions of timing, improved rate designs and
18 improved collection of customer data. The company should be dealing now with notions of
19 how this significant transformation can be achieved with the optimum result for the company
20 and its customers. Rate integration itself can be an important step toward a total company
21 effort to improve electric system operations and enhanced utilization of generation and
22 transmission resources.

1 **What would your initial recommendations to the Commission be in the area of rate**
2 **integration?**

3 The Commission should order the company to accurately track costs and organizational
4 changes as a result of the merger. Following a brief period to gather and evaluate data, the
5 company should be obligated to file a comprehensive rate case for the merged operations
6 within three years of the Commission's approval of the merger. The preferred method to
7 order the filing obligation is for the Commission to require that the filing be made on a
8 specified date, such as 1 April 2011. The company has stated that it will file cases for the
9 separate operations of KCPL and Aquila following the merger. The Commission should
10 reject this proposal and order the company to file a proposal to integrate financial operations
11 and electric system operations into a cost structure that can be comprehensively evaluated for
12 efficiencies and improved operations. The analysis of the new cost structure should lead to
13 more equitable assignment or allocations of costs to the appropriate service territories and
14 customer classes of the new KCPL. The Commission need not mandate a uniform rate
15 structure or design throughout the territories, as rationally justified differentials due to
16 geographic or other system differences should be allowed. This requirement for cost analysis
17 and rate proposals should be viewed as an opportunity for KCPL to take progressive,
18 innovative approaches to operational improvements.

19 **Please discuss some of your concerns in the area of system integration.**

20 The company has touched briefly on the topics of capital structure, cost savings and
21 organizational structure going forward. These areas of business system integration deserve
22 substantially more attention on the part of the company. Without conducting an intense

1 management audit of the proposed merged operations, I cannot make any specific
2 recommendations to the Commission at this point in the proceeding. I do recommend that
3 the Commission order the company to track costs and operational changes and institute
4 standards and reporting requirements to ensure that efficiencies are being realized and that
5 customers are being better served through the merged entity.

6 **What are some of your concerns in the area of customer service integration?**

7 While the company has briefly discussed topics related to customer service operations, there
8 is a lack of substance and specificity. Even though customer satisfaction is a critical area of
9 concern when significant organizational changes affects consumers, the company has not
10 provided sufficient detail on how the merger will impact customers. When regulated
11 monopolies suggest organizational changes and mergers that allege significant cost savings,
12 it is incumbent on the regulatory body to ensure that service quality to captive customers
13 does not deteriorate. The present application fails to establish obligatory service quality
14 standards that would put some teeth into requirements that the utility meet minimum service
15 quality targets. Customers should be provided solid safeguards to guarantee service quality,
16 or in the event that standards are not met, the utility is obligated to provide compensation for
17 the diminution of utility services. The Commission should therefore require the company to
18 file an application for a Quality of Service Plan, with the appropriate standards and customer
19 remedies, within ninety days of its final decision in this proceeding.

20 **Does the Commission have rules that establish minimum service quality obligations?**

21 My understanding is that the Commission does not presently have service quality rules that
22 require minimum performance on behalf of the jurisdictional electric utilities. Several

1 industry standards exist which can be used in establishing Commission rules or a utility
2 specific Quality of Service Plan. I suggest that KCPL submit an application containing
3 essential standards to be used in judging its performance. Those basic measures of
4 performance could be SAIFI, SAIDI, CAIDI, MAIFI or others that provide a comprehensive
5 test of the quality of service to which customers are entitled. In requiring and approving a
6 plan of this type, the Commission will ensure the public interest is best served by the newly
7 merged KCPL.

8 **Please discuss the concept of an Earnings Sharing Mechanism, to which you allude in**
9 **your opening comments.**

10 In its application for approval of a merger, the company asserts substantial benefits to itself,
11 its shareholders, its customers and the newly acquired customers. Included in that filing are
12 requests for special regulatory treatment for certain costs and revenues. At this point a utility
13 will usually cast a dollar or two in the direction of customers. In this instance, a better
14 approach is for customers to share in the improved cost structure through a mechanism that
15 routinely/annually evaluates the earnings picture of the company, and if earnings are realized
16 in excess of the Commission authorized rate of return, then customers receive a portion of
17 that excess. As with the Quality of Service Plan, the Earnings Sharing Mechanism could be
18 handled in a separate proceeding filed with the Commission following the approval of the
19 merger. If the Commission grants approval of the application for merger, then the order
20 should state that approval is conditional upon acceptance of the obligation to file for the
21 Quality of Service Plan and the Earnings Sharing Mechanism.

1 **Please describe what you believe should be essential elements of an Earnings Sharing**
2 **Mechanism application.**

3 I have had substantial experience in the need for and design of mechanisms which evaluate
4 earnings and subsequent treatments for utilities and their customers. The most successful
5 method is one which has been referred to having a “reverse taper” in determining rewards for
6 customers and the utility. The mechanism utilizes the authorized return on equity (ROE) as
7 the threshold above which excess earnings are either retained by the utility or returned to
8 customers.

9 **Please provide an example of how the sharing of earnings is determined.**

10 In light of the fact that the easiest earnings to achieve are the next several dollars above the
11 authorized level, the reverse taper returns to customers a greater share of those dollars. After
12 greater excess earnings are achieved, more is retained by the utility. Here is an example of
13 what worked very well in the past. If KCPL’s authorized ROE is 11.25%, any earnings
14 above 11.25% and up to 12.25% receive a distribution of 65% to customers and 35% to
15 KCPL. Excess earnings above 12.25% up to 14.25% are split 50% each to customers and
16 KCPL. The next 1% of excess ROE is allocated 35% to customers and 65% to KCPL.
17 Finally, all excess earnings over 15.25% are retained 100% by KCPL. The following table
18 provides a concise display.

TABLE 1

EARNINGS SHARING TREATMENT OF EXCESS REVENUES	
11.25% < EARNED ROE ≤ 12.25%	== 65% RETURNED TO CUSTOMERS 35% RETAINED BY KCPL
12.25% < EARNED ROE ≤ 14.25%	== 50% RETURNED TO CUSTOMERS 50% RETAINED BY KCPL
14.25% < EARNED ROE ≤ 15.25%	== 35% RETURNED TO CUSTOMERS 65% RETAINED BY KCPL
EARNED ROE ≥ 15.25%	== 100% RETAINED BY KCPL

How would the earnings sharing process function?

Annually (on a date prescribed by the Commission), KCPL would file its financial data to open a proceeding allowing for the Staff of the Commission and other interested parties to review and validate the figures supplied. KCPL would use the approved accounting treatments from its last electric rate case as the basis for determining legitimate costs and revenues. The procedure could be litigated, but the more likely outcome is that the parties to the proceeding would come to an understanding of appropriate costs and revenues and establish the amounts subject to distribution to customers and the utility. The Commission would then issue a decision ordering KCPL to return the proper portion of excess earnings to customers. The best way to do that is likely to apply a factor to a customer's prior year's billed revenue, then place a bill credit on a future bill.

APPROPRIATE STANDARD FOR APPROVAL

Please discuss your earlier comment that the merger needs to be found “not detrimental to the public interest.”

Although state regulatory commissions have various authorities with regard to jurisdiction in approving and conditioning applications for merger, I believe the standard applied by the

1 Commission is the need to make a finding that the merger is “not detrimental to the public
2 interest.” The burden of presenting proof in support of the application rests with the joint
3 applicants.

4 **What is your understanding of how the above standard should be applied in a case such**
5 **as this one?**

6 If the joint applicants fail to show that the merger transaction is not detrimental to the public
7 interest, *i.e.*, if it is not demonstrated that the Missouri public will not be harmed by the
8 proposed merger, then the Commission should reject the application and deny the merger.

9 Sufficient evidence needs to exist so the Commission can adequately examine cost-benefit
10 analyses in which all of the benefits and all of the detriments of the proposed merger lead to
11 the conclusion that the merger is not detrimental to the public interest. The joint application
12 thus far does not provide enough information for the Staff of the Commission and other
13 parties to conduct adequate cost-benefit analyses to recommend approval to the Commission.

14 **RECOMMENDATIONS TO THE COMMISSION**

15 **Please summarize your recommendations to the Commission.**

16 The merger will be in the public interest if: (1) sufficient information is added to the body of
17 record evidence in this case to allow the Commission to make a ruling, and (2) the
18 Commission incorporates substantial consumer safeguards into its order. Customers need to
19 be protected from potential degradation of service quality through the cost cutting efforts of
20 the merged utility. A Quality of Service Plan is critical to ensuring the public interest is well
21 served by the proposed merger. Additionally, in the event that the merged utility is able to
22 extract earnings in excess of its authorized level following the merger, the Commission

1 should have in place a mechanism to share some of those excess earnings with customers in a
2 timely fashion. Again, the best way to accomplish sharing of the excess earnings is to
3 condition the approval of the joint application on commitment of the company to participate
4 in an Earnings Sharing Mechanism.

5 **Does this conclude your testimony?**

6 Yes, it does.

Appendix A

ROBERT J. HIX

Former Chairman/Commissioner Colorado Public Utilities Commission

Presently, Robert J. Hix is semi-retired following over 36 years in the business of utility operations and regulation. Beginning January 2007, Mr. Hix began accepting consulting projects involving utility operations, regulatory policy, resource acquisition and other regulatory activity.

From 1 March 2004 through 2 June 2006, Mr. Hix was Director, Regulatory and Strategic Analysis for Xcel Energy Services in Denver, Colorado.

In August 2001, Mr. Hix joined LaCapra Associates as Managing Consultant and Director – Denver Office, to establish a stronger presence in the West. His experience enhanced the organizations' ability to meet client needs efficiently in the areas of ratemaking and utility planning, distributed generation, renewable energy public policy and energy efficiency.

Prior to joining La Capra Associates, Mr. Hix was Colorado Public Utilities Commission Chairman and Commissioner. He was a member of the Advisory Council to the Board of Directors of the Electric Power Research Institute and was a member of the Planning Committee of the North American Electric Reliability Council. Mr. Hix is currently Vice-Chair of the Board of Directors of the Colorado Energy Science Center.

Previous to his appointment as PUC Chairman, Mr. Hix was a Senior Engineering Analyst with the Colorado Office of Consumer Counsel, which represents residential, small business and agricultural customers on issues before the Public Utilities Commission. As Senior Engineering Analyst, Mr. Hix testified as an expert in engineering and rate matters at hearings before the Public Utilities Commission. His primary role was to determine the policy and regulatory implications of rate changes and allocation among various customer classes.

RELEVANT EXPERIENCE

- During the late winter in 2006, Mr. Hix conducted an internal investigation of the events and circumstances surrounding controlled outages of electric customers of Public Service Company of Colorado. A report was submitted to the Colorado Public Utilities Commission on 13 March 2006. Subsequently, the CO PUC opened an investigatory docket dealing with the controlled outages on 18 February 2006.
- Following the passage of the Colorado Renewable Energy Standards (Amendment 37), Mr. Hix led the Xcel Energy efforts to improve the legislation and develop Renewable Energy Standard rules at the Colorado Public Utilities Commission. Additionally, Mr. Hix led the development of tariffs submitted to the PUC for approval of a rider to collect funds to pay for the renewable activity, primarily small solar installations, and tariffs establishing a Standard Rebate Offer to provide payments to customers installing Photovoltaic systems sized 10 kW or smaller.

- During parts of 2003 and 2004 advised Xcel Energy on the preparation of its cost allocation and rate design case to be filed with the Colorado Public Utilities Commission in late winter 2004. In addition to reviewing all testimony filed in the case, Mr. Hix prepared testimony regarding policy and history of proper program design for Interruptible Service.
- Advised several clients on transmission projects across community sensitive areas in Colorado. Consideration was given to need for the facilities, design of the transmission line, alternative routing as well as accommodating the preservation of the citizen's health and welfare.
- Submitted testimony on behalf of the City and County of Denver in a revenue requirements case before the Colorado PUC. Testimony addressed the appropriateness and proper design of an electric cost adjustment.
- Served as Chairman of the Colorado Public Utilities Commission from May 1994 to July 1999. Continued as Commissioner from July 1999 until May 10, 2001. Regulated transportation, intrastate railroad, water, telecommunications, electric, natural gas and steam utility companies operating in the state of Colorado. Was a member of the National Association of Regulatory Utility Commissioners (NARUC) Committee on International Relations, Committee on Electricity and Subcommittee on Strategic Issues. Earlier, served on NARUC's Committee on Gas. Member of the Advisory Council to the Board of Directors of the Electric Power Research Institute and member of the Planning Committee of the North American Electric Reliability Council. Member of the Advisory Council of the New Mexico State University Center for Public Utilities.
- Conducted a Regulatory Partnership with the Orissa Electricity Regulatory Commission (state in India). Over a two-year period, advised the OERC; India's Central Electricity Regulatory Commission (Federal); the Administrative Staff College of India; the Commission for the state of Uttar Pradesh; and the Tata Energy Research Institute.
- Represented the interests of residential, small business, and agricultural customers, testified as expert witness on engineering and rate matters at hearings before the Public Utilities Commission. Primary role was to determine the policy and regulatory implications of rate and regulatory changes among various customer classes. Coordinated activities of outside expert consultants.
- Coordinated activities of the Public Service Company of Colorado System Planning Division relative to a Management Audit ordered by the Colorado Public Utilities Commission and performed special assignments and contract analysis for the Division Manager.
- Initiated a project to develop procedures and direct activities necessary for initiating, negotiating and managing power contracts. Resulted in being named Power Contracts Administrator responsible for the satisfactory completion of arrangements for Bulk Power

Purchase, Transmission Interconnection and Joint Venture Projects with other utilities for power plants and transmission facilities.

- Developed and calculated Fuel Cost Adjustments, Gas Cost Adjustments and refund applications and prepared and submitted applications to the Colorado PUC for Public Service Company.
- Developed Gas Rate Riders for Western Slope Gas Company and Cheyenne Light, Fuel and Power Company and prepared applications to the appropriate Commissions.
- Prepared technical exhibits and data responses for rate proceedings and energy related matters.
- Prepared applications for Special Rate Schedules to the Federal Power Commission (Federal Energy Regulatory Commission).
- Involved with Cost of Service Analysis for Electric Rate Design and actual Electric and Gas Rate Design to produce the revenue requirements of Public Service Company.
- In addition to normal distribution engineering duties for the Public Service Company of Colorado, was responsible for estimation, negotiation and purchase of secondary and “in-building” services from electrical contractors for Public Service Company.

EMPLOYMENT HISTORY

Xcel Energy <i>Director, Regulatory and Strategic Analysis</i>	Denver, CO 2004 -2006
La Capra Associates <i>Director / Managing Consultant</i>	Denver, CO 2001 - 2004
Colorado Public Utilities Commission <i>Chairman/Commissioner</i>	Denver, CO 1994 - 2001
Colorado Office of Consumer Counsel <i>Senior Engineering Analyst</i>	Denver, CO 1984 - 1994
U.S. Peace Corps <i>Peace Corps Volunteer, Mathematics and Physics Teacher</i> <i>Lomawai Secondary School</i>	Sigatoka, Fiji 1984
Public Service Company of Colorado <i>Electric System Planning Staff Assistant</i> <i>Power Contracts Administrator</i>	Denver, CO 1971 - 1983

Special Projects Analyst, Special Projects Division
Rate Engineering Technician, Rates and Regulations Division
Field Engineer, Electric Distribution Engineering Department

EDUCATION

Michigan State University Institute of Public Utilities <i>Williamsburg Conference, Advanced Regulatory Studies, and Regulatory Studies Program</i>	East Lansing, MI 1985 - 1987
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University of Colorado, Boulder <i>Graduate coursework in Combinatorial Analysis, Management Science, Marketing and Business Statistics</i>	Denver and Boulder, CO 1974 - 1975
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International Correspondence School <i>Diploma, Electric Distribution Engineering</i>	1974
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Regis College, Denver <i>B.S. in Mathematics with a Minor in Physics</i>	Denver, CO 1970
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PROFESSIONAL

Member of the Advisory Council to the Board of Directors Electric Power Research Institute	1999 - 2002
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Member of the Advisory Council, New Mexico State University Center for Public Utilities	1999 - 2006
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Member of the Planning Committee, North American Electric Reliability Council	1998 - 2001
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Member of the Board of Directors, Vice-Chair, Colorado Energy Science Center	2003-present
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