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
In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in its Charges for Electric Service	))))	Case No. ER-2009-0090
In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in its Charges for Steam Heating Service	))))	Case No. HR-2009-0092

MOTION FOR RECONSIDERATION AND/OR REHEARING
OF ORDER MODIFYING PROCEDURAL SCHEDULES
FOR TRUE-UP PROCEEDINGS
AND MOTION FOR EXPEDITED TREATMENT

Pursuant to 4 C.S.R. 240-2.160 and 4 CSR 240-2.060(16), Kansas City Power & Light Company ("KCP&L") and KCP&L Greater Missouri Operations Company ("KCP&L-GMO") (collectively, the "Companies") hereby request that the Missouri Public Service Commission ("Commission") reconsider its *Order Modifying Procedural Schedules for True-Up Proceedings and Formally Adopting Test Year and Update Period* issued March 18, 2009 in the above-captioned proceedings ("*Modified Procedural Order*").

While the Companies appreciate the Commission's apparent desire to ensure that these rate cases include consideration of the Companies' Iatan 1 investment by extending the true-up period and related true-up procedures and hearings, the Commission has adopted conditions that largely negate the positive impact and fairness of the Commission's order—conditions that are wholly unrelated to the Companies' request to modify the true-up date in these cases. Specifically, the conditions proposed by Staff and adopted by the Commission in Ordering

Paragraph 5 of the *Modified Procedural Order* exceed the Commission's statutory authority by prejudging substantive and contested issues in these cases with no supporting evidence, findings of fact, or conclusions of law, and constitute a regulatory taking without due process of law in violation of statutory and constitutional principles. Perhaps the Commission believed the Companies were willing to accept Staff's proposed conditions. That is not the case. The Companies respectfully request that the Commission issue a revised *Modified Procedural Order* eliminating the conditions on an expedited basis, no later than March 31, 2009.

In support hereof, the Companies state as follows:

1. In its *Modified Procedural Order*, the Commission (i) agrees to extend the true-up date in these cases until April 30, 2009; (ii) directs the Companies to comply with their representation that they would voluntarily extend the effective date of the tariffs filed in these proceedings until September 5, 2009; and (iii) imposes five of six conditions proposed by Staff. This request for reconsideration is in response to the imposition of Staff's recommended conditions.

2. The Commission imposes the following conditions:

   (i) "Iatan 1 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 Movants' next electric rate case" ("Iatan 1 Cost Condition");

   (ii) "depreciation reserve attributable to Iatan 1 accrued post March 31, 2009 shall be included in setting rates in this proceeding" ("Depreciation Condition");

   (iii) "deferred income tax reserve attributable to Iatan 1 accrued post March 31, 2009 will be included in setting rates in this proceeding" ("Tax Reserve Condition");

   (iv) "environmental credits for energy productions from Iatan 1 shall be applied as an offset to the Iatan 1 plant balance" ("Environmental Credit Condition"); and

(v) "the value of power generated by Iatan 1 net of variable costs shall be credited to the costs to be placed in service" ("Test Power Condition").

THE IATAN 1 COST CONDITION IS UNLAWFUL IN THAT IT IS NOT SUPPORTED BY SUBSTANTIAL AND COMPETENT EVIDENCE AND CONTEMPLATES INTERIM RATES SUBJECT TO REFUND

3. By imposing the Iatan 1 Cost Condition, the Commission summarily pre-determines what is likely the most significant contested issue in this case, that is, what amount of costs related to the Companies' investment at Iatan 1 is appropriate to include in rates as part of these cases. In his Direct Testimony, Staff witness Cary Featherstone

> recommends the Commission either, (1) to the extent the costs of that project exceed KCPL's definitive estimate, make that portion of KCPL's rates interim subject to refund or (2) expressly state in its Report and Order in this case that it is not deciding for the purpose of setting rates in this case the issue whether the construction costs of the Iatan 1 project were prudently incurred and that it will take up the matter of the prudency of those costs in a future case, if a party properly raises the issue before the Commission in that case.[1]

4. In the Rebuttal Testimony of Company witnesses William Downey, Carl Churchman, Chris Giles, Brent Davis, Steve Jones, Kris Nielsen, Ken Roberts, and Dan Meyer, the Companies vigorously oppose Staff's recommendation, as testified to by Mr. Featherstone. Despite the lack of evidence in the record concerning what is a highly contested issue in these cases, by imposing the Iatan 1 Cost Condition, the Commission has adopted in a procedural order Staff's first alternative recommendation, *i.e.*, "to the extent the costs of that project exceed KCPL's definitive estimate, make that portion of KCPL's rates interim subject to refund."

5. It is a fundamental violation of the Companies' statutory and constitutional due process rights for the Commission to resolve such a material issue in the favor of one party over another when there is no evidence in the record upon which to make the determination. The

---

[1] Cary Featherstone Direct Testimony, at p. 36 (Case No. ER-2009-0089). Mr. Featherstone repeats his recommendation in his Direct Testimony in Case Nos. ER-2009-0090 and HR-2009-0092.

Commission will ultimately determine what level of Iatan 1 costs are appropriate for the Companies to reflect in their rates, but it must do so based on the substantial and competent evidence in the record in these cases. It is unlawful, arbitrary, and capricious for the Commission to decide or otherwise prejudge in a procedural order the appropriate ratemaking treatment for the Companies' Iatan 1 investment; especially where as here there is no evidence in the record to support the Commission's determination.[2] Such a decision must be based on substantial and competent evidence.

6. The Iatan 1 Cost Condition also ignores the legal presumption that a public utility's investments are prudent unless and until someone presents evidence that creates a serious doubt of the company's prudence.[3] By adopting Staff's recommendation, the Commission presumes that the Companies' Iatan 1 costs "that exceed the base costs" might have been imprudently incurred. There is no substantial and competent evidence in the record to suggest that there is serious doubt about the Companies' prudence. Mr. Featherstone simply suggests that the Utility Services Division did not have adequate time to complete its prudence audit.[4] The Companies contest that assertion in the Rebuttal Testimony of Chris Giles and Brent Davis by demonstrating that Staff did in fact have access to and did review over an extended

---

2 In the *Modified Procedural Order at 4*, the Commission properly rejected Staff's proposed condition "c" on the ground that the "Commission will not prejudge any potential violation of a Commission order without knowing the facts and circumstances surrounding the alleged violation." Similarly, the Commission should not prejudge other hotly contested substantive issues at this juncture of the proceeding without competent and substantial evidence to support its decisions.

3 *In re Union Electric Company*, 27 Mo.P.S.C. (N.S.) 183, 193 (1985) ("*Union Electric*"). *See also State ex. rel. Associated Natural Gas Co. v. Public Serv. Comm'n*, 954 S.W.2d 520, 529 (Mo. App. W.D. 1999). Moreover, in *State ex rel. Public Counsel v. Public Serv. Comm'n*, 2009 WL 68124 (Mo. App. W.D., Jan.13, 2009), the Missouri Court of Appeals upheld a determination by the Commission in Case No. ER-2007-0002 that the Office of the Public Counsel had not met its burden when it challenged the cost of a combustion turbine generator. Public Counsel had not done a construction audit, but argued that the cost in rate base should be reduced based in part on generic cost information from 1995 and the fact that the utility had delayed construction. The Commission found at p. 69 of its Report and Order that an economist's speculation about plant costs does not create a "serious doubt" as to the prudence of the utility's expenditures.

4 *See* Cary Featherstone Direct Testimony, at pp. 35-36 (Case No. ER-2009-0089). Mr. Featherstone repeats this assertion in his Direct Testimony in Case Nos. ER-2009-0090 and HR-2009-0092.

period of time a substantial amount of data concerning Iatan 1 costs and KCP&L's management of the project.[5] Intervenor witnesses Jatinder Kumar and James Dittmer simply compare in their Direct Testimony the cost of the Iatan 1 investment to previous estimates.[6] In no case does a witness raise any specific allegation of imprudence, much less create a serious doubt about the Companies' prudence through substantial and competent evidence.

7. The Companies also question the logic of requesting that they voluntarily extend the effective date of the tariffs in this case while at the same time postponing the Commission's prudence determination and making at least some portion of the Companies' rates interim and subject to refund. If the Commission is going to presume that some unspecified level of "base costs"[7] are prudent and postpone its review of costs incurred in excess of that amount, it is unclear why delayed effective dates are necessary. The Companies proposed to voluntarily extend the effective date of their tariffs to give Staff and other parties sufficient time to review invoices and other cost data to accommodate the modified true-up date requested by the Companies. If the Iatan 1 Cost Condition is ultimately imposed and the Commission arbitrarily includes in the Companies' rates on a permanent basis some level of "base costs" and defers its prudence review of costs in excess of that amount, no additional time is needed to review invoices or other cost data. In fact, no review or audit would be necessary in this case if the Iatan 1 Cost Condition is imposed. The only issue would be what the phrase "Iatan 1 costs that exceed the base costs" means.

---

5 *See* Chris Giles Rebuttal Testimony, at pp. 5-18; Brent Davis Rebuttal Testimony, at pp. 12-24 (Case No. ER-2009-0089).

6 *See* Jatinder Kumar Direct Testimony, at pp. 43-45; James Dittmer Direct Testimony, at pp. 4-14 (Case No. ER-2009-0089).

7 As described below, the term "base costs" is a new term undefined in either the Staff's recommendation or the *Modified Procedural Order*.

8. In addition, it is the Companies' position that Staff's recommendation to make a portion of the Companies' rates "interim subject to refund" is unlawful. The Companies' position is described in the Rebuttal Testimony of Company witness Chris Giles,[8] and the Companies intend to fully brief this issue in these cases. 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.

9. 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 rate relief is the filing of interim tariffs, as a separate case, under the file and suspend method. The Commission noted that an interim rate proceeding under any other method would be of "very doubtful effectiveness" and rejected KCP&L's interim rate relief request because it did not make a proper tariff filing, *i.e.*, the interim tariffs at issue had no effective date and were not filed under a separate docket number separate from the permanent rate case. The Commission also held that properly filed interim tariffs should be accompanied

---

8 Chris Giles Rebuttal Testimony, at pp. 5-10 (Case No. ER-2009-0089).

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 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." 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).

by affidavits or suggestions setting forth the changed circumstances or conditions that the company alleges justify the interim rates.

10. The Companies have not requested interim rate relief, the Commission's procedural requirements for seeking an interim rate have not been satisfied, and there is no evidence in the record to support the need for or appropriateness of interim rates in these cases. In fact, the *Modified Procedural Order* contains no discussion of the Commission's criteria for allowing, or in this case imposing interim rates. The Companies question whether it would be lawful or appropriate for the Commission to impose interim rates subject to refund under any circumstance without the agreement of the public utility.[12] Here, it is undoubtedly unlawful and inappropriate because the Companies have not requested interim rates and the procedural and evidentiary prerequisites for interim rates have not been satisfied.

11. Any refund ordered in a subsequent rate case concerning the inclusion of Iatan 1 investment in rates would require a finding that the rates resulting from the Companies' currently pending rate cases were not just and reasonable. Ordering a refund based upon such a finding is the very definition of retroactive ratemaking. Under Missouri law, the Commission may consider past excess recovery insofar as it is relevant to the Commission's determination of what rate is necessary to provide a just and reasonable return in the future and avoid any further excess recovery.[13] However, the Commission cannot redetermine rates already established and paid without depriving the utility of its property without due process.[14]

---

12 The Commission concluded in its 1993 decision to adopt an alternative regulation plan for Southwestern Bell Telephone Company that included customer credits if specified earnings thresholds were exceeded, that it did not have the authority to order credits without the agreement of the company. ("The Commission could not order the credits, but it believes that SWB may agree to make the credits as part of its acceptance of an alternative regulation plan...") Report & Order, *Staff v. Southwestern Bell Telephone Co.*, Case No. TC-93-224 & TO-93-192, 2 Mo.P.S.C.3d 479, 585 (Dec. 17, 1993).

13 *See State ex rel. General Tel. Co. v. Public Serv. Comm'n*, 537 S.W.2d 655 (Mo. App 1976).

14 *See UCCM* at 58. *See also, Lightfoot v. City of Springfield*, 236 S.W.2d 348, 353 (Mo. 1951).

12. The Companies also contend that the Commission has an affirmative obligation to address the prudence of the Companies' investment at Iatan 1 in these cases because Missouri law requires that "all relevant factors" be considered in a rate case.[15] The Companies' Iatan 1 investment is the principal plant addition in these cases. Hundreds of millions of dollars of investment are at stake, under-recovery or a delayed prudence review of which may adversely affect the Companies' credit metrics, and which will introduce significant regulatory uncertainty, in the current time of severe volatility and disruption in the capital and credit markets, that could have an adverse effect on the Companies' access to capital and cost of funds. There can be no doubt that reflection of those costs in the Companies' rates in these cases is a "relevant factor." The Companies would argue that it is in fact the most relevant factor.

13. In addition to the above, adopting the Iatan 1 Cost Condition represents a significant departure from how the Commission has addressed KCP&L's two prior cases under its Regulatory Plan, which the Commission approved in Case No. EO-2005-0329. As noted by the Commission in its August 7, 2005 Order approving the Regulatory Plan, "[t]he Stipulation does not limit any Signatory Party's ability to challenge KCPL when it proposes to recover its costs in future rate cases.[16] Thus, the Commission recognized that the Signatory Parties' ability to challenge the prudence of construction projects occurs when KCP&L proposes to recover the cost of the project in rates, and that is the process by which the Commission decided KCP&L's two prior cases under the plan, Case Nos. ER-2006-0314 and ER-2007-0291. KCP&L, consistent with the Regulatory Plan and the Commission's practice in the earlier cases, proposes to recover the cost of its Iatan 1 investment in pending Case No. ER-2009-0089, which is

---

15 *See UCCM*, at 56-57; *State ex rel. Missouri Public Serv. Comm'n v. Fraas*, 627 S.W.2d 882, 886 (Mo. App. 1982); *State ex rel. Valley Sewage Co. v. Public Serv. Comm'n*, 515 S.W.2d 845, 850 (Mo. App. 1974). *See also*, § 393.270(4).

16 *See* Regulatory Plan Report and Order, at p. 37 (emphasis added).

described as "Rate Filing # 3 (2008 Rate Case)" in the Regulatory Plan. The Commission is not bound by its precedent and may depart from its prior rulings, but to do so without explanation or justification is an abuse of discretion and is arbitrary and capricious. Here, the Commission has not adequately explained its departure from how it decided KCP&L's prior rate cases under the Regulatory Plan.

14. Assuming the Commission did have the legal authority to include a portion of the Companies' Iatan 1 costs on an interim basis subject to refund, there is not enough specificity in the *Modified Procedural Order* to understand what that would mean. In its entirety, the Iatan I Cost Condition provides that "Iatan 1 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 Movants' next electric rate case."

15. There is no indication of what portion of the Companies' Iatan 1 investment would be permanently reflected in rates and what portion would be interim and potentially subject to refund. What constitutes "Iatan 1 costs that exceed the base costs" is not defined. Consequently, it is not clear if the "safe harbor" for inclusion of Iatan 1 costs in rates on a permanent basis would be based on (i) the preliminary $376 million Control Budget Estimate KCP&L developed in December 2006 when the project was only 20% engineered (the inappropriateness of relying upon that figure is discussed at length in the Rebuttal Testimony of Company witness Dan Meyer[17]); (ii) the $484 million reforecast of the Control Budget Estimate KCP&L completed in May 2008, which Mr. Meyer also describes in his Rebuttal Testimony,[18] (iii) $753 million, which not only includes the Iatan 1 investment, but also includes the investment in the common facilities at the Iatan Generating Station that will be necessary for the

---

17 Dan Meyer Rebuttal Testimony, at pp. 3-13 (Case No. ER-2009-0089).

18 Dan Meyer Rebuttal Testimony, at pp. 14-23 (Case No. ER-2009-0089).

operation of both Iatan 1 and Iatan 2,[19] as discussed in the Direct Testimony of Company witness Brent Davis and the Rebuttal Testimony of Steve Jones;[20] or (iv) a number between $484 million and $753 million that would reflect some allocation of the common facilities to Iatan 1 and establish a regulatory asset for the depreciation expense and carrying costs associated with the remainder of the common facility assets to be reflected in rates with Iatan 2.[21]

16. Assuming the Commission deemed it appropriate to allocate common facility costs between Iatan 1 and Iatan 2 for ratemaking purposes, there is currently no evidence in the record to support what specific dollar amount should be allocated to Iatan 1 in these cases. Brent Davis generally describes in his Direct Testimony the concept of allocating the cost of common facilities between Iatan 1 and Iatan 2 based upon a weighted average of the units' generating capacity,[22] and in work-papers and reconciliations with Staff, the Companies have allocated certain costs of the common facilities to Iatan 1 and used a regulatory asset for an allocation to Iatan 2. Nevertheless, there is insufficient evidence at this time for the Commission to make a determination concerning the aggregate level of common facility costs or an allocation of those costs between units. Those issues are to be addressed as part of the true-up procedures in this

---

19 $753 million represents total project cost, excluding AFUDC and allocations among jurisdictions and joint owners. Also, for clarification, Iatan 2 is still under construction and is not part of these rate cases. However, pursuant to the Uniform System of Accounts of the Federal Energy Regulatory Commission ("FERC"), the Companies will be required to include the entirety of the common facilities assets in their electric plant in service accounts once Iatan 1 is returned to service. 18 CFR 101.107. "**Construction work in progress—Electric.** A. This account shall include the total of the balances of work orders for electric plant in process of construction. B. Work orders shall be cleared from this account as soon as practicable after completion of the job. Further, if a project ... is designed to consist of two or more units or circuits which may be placed in service at different dates, any expenditures which are common to and which will be used in the operation of the project as a whole shall be included in electric plant in service upon the completion and the readiness for service of the first unit." (emphasis added).

20 Brent Davis Direct Testimony, at pp. 13-14; Steve Jones Rebuttal Testimony, at pp. 19-26 (identifying approximately $383 million of common facilities at the Iatan Generating Site, p. 25) (Case No. ER-2009-0089).

21 The portion of the common facility assets allocated to Iatan 2 would be in the Companies' electric plant in service accounts pursuant to FERC's Uniform System of Accounts, but would not be reflected in rates until a subsequent case.

22 Brent Davis Direct Testimony, at pp. 13-14 (Case No. ER-2009-0089).

case; in pre-filed true-up testimony and if necessary at the true-up evidentiary hearing contemplated in the procedural schedule.

17. For the foregoing reasons, it is unlawful and inappropriate for the Commission to impose the Iatan 1 Cost Condition.

THE DEPRECIATION & TAX RESERVE CONDITIONS ARE UNLAWFUL IN THAT THEY ARE NOT SUPPORTED BY SUBSTANTIAL AND COMPETENT EVIDENCE

18. The Companies' position concerning the Depreciation Condition and Tax Reserve Condition is similar to their position concerning the Iatan 1 Cost Condition described above. There are already accounting and tax rules in place that will govern how depreciation reserve and deferred income tax reserve attributable to Iatan 1 are treated. The Companies have not requested any waivers, variances, or other special treatment concerning those rules. There is no evidence in the record for setting aside how those rules would otherwise apply in favor of the arbitrary imposition of the March 31, 2009 date, as used by both conditions. Use of the March 31 date is particularly arbitrary in light of the Commission's determination that "having fully considered the alternatives proposed by the parties [it] shall extend the True-Up period for all costs and revenues until April 30, 2009."[23] Moreover, by imposing these conditions, the Commission has decided issues to the Companies' detriment that have not been properly raised by a party, which is a violation of the Companies' statutory and constitutional due process rights.

19. Treatment of depreciation reserve and deferred income tax reserve attributable to Iatan 1 is dependent upon when the Iatan 1 AQCS equipment becomes "fully operational and used for service." There is no evidence in the record on which to base a decision to resolve these issues differently. Nowhere in its Direct or Rebuttal case does Staff propose to alter how the pertinent accounting rules would otherwise apply. If Staff or any other party adopts such a

[23] *Modified Procedural Order*, at 4 (emphasis added).

position, it will be a contested issue in this case. In any event, there is no evidence in the record, much less competent and substantial evidence, that would warrant applying the March 31, 2009 date as imposed by the Commission.

THE ENVIRONMENTAL CREDIT CONDITION IS UNLAWFUL IN THAT IT IS NOT SUPPORTED BY SUBSTANTIAL AND COMPETENT EVIDENCE

20. The Companies' position concerning the Environmental Credit Condition is similar to their positions concerning the Depreciation and Tax Reserve Conditions discussed above. There is no evidence in the record that supports deviating from how environmental credits should be treated. This is particularly true with respect to KCP&L, which pursuant to its Regulatory Plan, developed an SO_2 Emission Allowance Management Plan ("SEAMP") that it submits annually to Staff and to the Office of the Public Counsel. The Regulatory Plan also sets forth ratemaking treatment for revenues associated with transactions under the SEAMP.

21. Absent the radical departure from that process that would result from the Environmental Credit Condition, any SO_2 emission allowance credits generated by Iatan 1 once it returns to service would continue to be treated pursuant to the requirements of the Regulatory Plan at least with respect to KCP&L's allocated share of such credits. Similarly, any credits allocated to KCP&L-GMO would be treated in the same manner as such credits are currently treated. The Companies would contest any party's attempt to deviate from those processes and the issue would need to be resolved by the Commission in this case based on substantial and competent evidence. At this stage, there is no such evidence in the record to support the Environmental Credit Condition. Therefore, imposing the condition represents an unjustified departure from the Commission's approval of the Regulatory Plan and the treatment of emission allowances in KCP&L's prior rate cases under the plan, *i.e.*, Case Nos. ER-2006-0314 and ER-2007-0291. Moreover, by imposing the Environmental Credit Condition, the Commission has

decided issues to the Companies' detriment that have not been properly raised by a party, which is a violation of the Companies' statutory and constitutional due process rights.

THE TEST POWER CONDITION IS UNLAWFUL IN THAT IT IS NOT SUPPORTED BY SUBSTANTIAL AND COMPETENT EVIDENCE

22. By imposing the Test Power Condition, the Commission incorrectly treats Iatan 1 as though the generating unit had to satisfy in-service criteria to be included in rates. In fact, only the AQCS equipment that has been added to the unit is subject to in-service testing. Iatan 1 has been fully operational and used for service for nearly thirty years. The Commission deemed Iatan 1 used and useful and included the plant in KCP&L's ratebase for ratemaking purposes in 1981 as part of Case No. ER-81-42. Iatan 1 is not a new generating unit. It is simply returning to service following an outage, as routinely occurs with all of the Companies' generating units. Consequently, there will be no test power associated with Iatan 1's return to service. Treating power generated by Iatan 1 as "test power" for some unspecified period following Iatan 1's return to service would result in a significant under recovery by the Companies because the resulting reduction in rate base will impact the Companies' earnings on their investment until those assets are fully depreciated. It is arbitrary and capricious for the Commission to require that Iatan 1 be treated like a new generating unit that has never before been used to serve the Companies' customers with absolutely no evidentiary or legal support for such treatment. Moreover, by imposing the Test Power Condition, the Commission has decided issues to the Companies' detriment that have not been properly raised by a party, which is a violation of the Companies' statutory and constitutional due process rights.

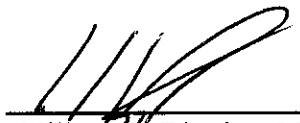
MOTION FOR EXPEDITED TREATMENT

19. Pursuant to 4 CSR 240-2.060(16), the Companies respectfully request that the Commission resolve this critical matter on an expedited basis by March 31, 2009 so that the

parties will know the parameters of the True-Up proceeding as soon as possible. Otherwise, the schedule for these proceedings will be in doubt beyond the original March 31 True-Up cut-off date, and there will be substantial uncertainty among the parties about how to proceed in the True-Up proceeding. This pleading was filed as soon as it could have been after the *Modified Procedural Order* was issued. The Companies believe that the Commission should order any responses from Staff and other parties to be filed no later than March 25, 2009, in order to expedite this decision.

For the foregoing reasons, the Companies respectfully request that the Commission reconsider and rescind the imposition of the conditions suggested by Staff. The conditions exceed the Commission's statutory authority, prejudging substantive and contested issues in these cases with no supporting evidence, findings of fact, or conclusions of law, and constitute a regulatory taking without due process of law. Consequently, the Companies respectfully request that the Commission issue a revised *Modified Procedural Order* eliminating the conditions on an expedited basis.

Respectfully submitted,



William G. Riggins, MBN 42501
Chief Legal Officer and General Counsel
Curtis D. Blanc, MBN 58052
Managing Attorney - Regulatory
Kansas City Power & Light Company
1201 Walnut
Kansas City, MO 64106
Telephone: (816) 556-2785
email: Bill.Riggins@kcpl.com
email: Curtis.Blanc@kcpl.com

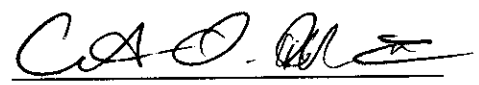
James M. Fischer, MBN 27543
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101
Telephone: (573) 636-6758
Facsimile: (573) 636-0383
email: jfischerpc@aol.com

Karl Zobrist, MBN 28325
Roger Steiner
Sonnenschein Nath & Rosenthal LLP
4520 Main Street, Suite 1100
Kansas City, MO 64111
Telephone: (816) 460-2545
Facsimile: (816) 531-7545
email: kzobrist@sonnenschein.com
email: rsteiner@sonnenschein.com
Attorneys for Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company

Dated: March 19, 2009

CERTIFICATE OF SERVICE

A copy of the foregoing has been served this 19th day of March 2009 upon counsel of record in the above-captioned proceedings.



Curtis D. Blanc