

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Application of Kansas City Power & Light	)	
Company for the Opening Of A Proceeding	)	Case No. EO-2008-0224
To File Status Report On Wind Investments	)	

**RESPONSE OF KANSAS CITY POWER & LIGHT COMPANY TO  
STAFF'S RECOMMENDATION/STATUS REPORT AND  
THE COMMENTS OF OTHER PARTIES**

Pursuant to 4 CSR 240-2.080 and the Order Directing Filing issued in the above-captioned proceeding on February 25, 2008, Kansas City Power & Light Company ("KCPL") hereby respectfully responds to Staff's Recommendation/Status Report ("Report"), as well as the comments submitted by the Office of Public Counsel ("OPC"), Praxair, Inc. ("Praxair"), and the Missouri Department of Natural Resources ("MDNR").

KCPL's decision not to construct a wind generation facility that would be operational in 2008 (the "2008 Wind Facility") at this time or enter into a power purchase agreement ("PPA") with a third party for power from such a facility is entirely consistent with the Stipulation and Agreement in Case No. EO-2005-0329 concerning the regulatory plan supporting KCPL's implementation of its Comprehensive Energy Plan ("Regulatory Plan Stipulation"). Moreover, it was a prudent decision by KCPL not to pursue the 2008 Wind Facility or to enter into a PPA for wind energy at this time.

In support hereof, KCPL states as follows:

**I. BACKGROUND**

1. In 2005, KCPL, Staff, OPC, Praxair, and other parties (collectively, the "Signatory Parties") negotiated and executed the Regulatory Plan Stipulation. The Missouri Public Service Commission ("Commission") approved the Regulatory Plan Stipulation in Case No. EO-2005-0329.

2. Section III.B.4. of the Regulatory Plan Stipulation at page 45, as amended, provides in pertinent part as follows:

100 MW of new wind generation facilities to be installed in 2006. As part of the determination respecting proceeding with the construction of the second 100 MW investment in new wind generation, KCPL will issue a Request for Proposal (RFP) for a twenty-year (20-year) purchase power agreement (PPA) for wind generation from independent third parties on a cost per kilowatt-hour basis, which includes any expected tax credits. An additional 100 MW of new wind generation facilities will be installed in 2008 if a detailed evaluation (made with input from interested Signatory Parties) supports such an action to proceed with its construction.

3. KCPL constructed a wind generation facility in Spearville, Kansas. The facility has a generation capacity of 100.5 MW and became operational in October of 2006. In March 2007, KCPL issued a request for proposals ("RFP") for wind generation facilities to be constructed in 2008. The RFP was limited to projects in Missouri and Kansas, but solicited proposals for facilities to be owned by KCPL as well as PPAs. In June 2007 KCPL received a total of fourteen responses to its RFP. However, only eight contemplated being completed in 2008, and of those, only three were located in Missouri. Of those three, only two had begun the Large Generator Interconnection Agreement process with the Southwest Power Pool.

4. KCPL held meetings/teleconferences on September 12, 2007, September 28, 2007, and December 17, 2007 with Staff, OPC, and/or MNDR, as well as other interested parties to discuss KCPL's evaluation of the 2008 Wind Facility and to solicit input on the advisability of proceeding with the project. During the September 12 meeting, KCPL provided an update of its RFP process and an evaluation of the wind projects the Company was considering. At that time, KCPL explained that it believed the 2008 Wind Facility was economically justifiable, although only slightly positive if at all from a revenue requirement

perspective, and that KCPL was exploring whether to make contractual commitments to proceed. Only MDNR expressed support during these meetings for the 2008 Wind Facility. The other parties took the position that it was the Company's decision whether to proceed and the prudence of such a decision was in question.

5. Domestic and global financial market conditions continued to worsen toward the end of 2007. In response to those conditions, KCPL reevaluated the prudence of constructing the 2008 Wind Facility. On December 13, 2007, KCPL concluded it would be prudent to delay pursuing the 2008 Wind Facility. On December 14, 2007, KCPL advised Staff and other entities of its decision. Then, on December 17, 2008, KCPL held a follow-up teleconference with interested Signatory Parties to further explain the rationale behind its decision. Only MDNR expressed disappointment with KCPL's decision not to proceed with the project. However, MDNR did not indicate that it disagreed with KCPL's rationale or its ultimate conclusion not to build the project. The other parties offered no objection whatsoever. The conversation quickly turned to how best procedurally to inform the Commission of KCPL's decision.

6. In direct response to input received from the parties during the December 17, 2007 teleconference, on January 4, 2008 KCPL submitted its "Application and Status Report on Wind Investments" ("Wind Status Report"). That submission initiated this proceeding. At Staff's request, KCPL included as an attachment to the Wind Status Report its evaluation of the 2008 Wind Facility, *i.e.*, the "KCP&L – Wind 2007 RFP Update." The Wind Status Report explained that changes in financial markets had rendered it prudent for KCPL to delay proceeding with the 2008 Wind Facility, but that KCPL remained committed to evaluating additional wind generation in 2009 and beyond. In fact, KCPL is obligated under an

agreement with the Sierra Club to install 100 MW of wind generation by the end of 2010, and an additional 300 MW by the end of 2012, subject to regulatory approval.

7. On January 14, 2008, the Commission issued an order in which it directed Staff to file a Recommendation/Status Report and any parties to submit comments in response to the Wind Status Report by February 19, 2008. In addition to Staff's Report, OPC, Praxair, and MDNR submitted comments. On February 25, 2007, the Commission issued an order directing any party wishing to respond to those comments to do so no later than March 3, 2008.

## **II. RESPONSE TO REPORT AND COMMENTS**

8. The issues raised in Staff's Report and the comments of the other parties fall into three broad categories: (i) KCPL has not adequately justified its decision not to pursue the 2008 Wind Facility or enter into a PPA with a third-party owner; (ii) KCPL somehow violated the Regulatory Plan Stipulation by concluding not to pursue the 2008 Wind Facility; and (iii) in the case of MDNR, additional policy considerations should be addressed when deciding whether to construct a wind generation facility in Missouri. KCPL offers the following in response to those comments:

### **A. It Was Prudent For KCPL to Delay Proceeding with the 2008 Wind Facility.**

9. Staff and the parties submitting comments allege that KCPL has not adequately supported its decision not to pursue the 2008 Wind Facility. Staff even goes so far as to imply that KCPL's decision not to pursue the project was somehow tied to the December evidentiary hearings in Case No. EM-2007-0374. Specifically, Staff states on page 4 of its Report:

In actuality, on November 29, 2007, **with the Great Plains Energy Incorporated (GPE)/Aquila, Inc. (Aquila) acquisition hearings starting on December 3, 2007**, KCPL

advised the Staff and other entities that KCPL's analysis was that the best alternative for KCPL's customers was for it to pursue development of a second 100 MW of wind generation for commercial operation prior to the end of 2008 .... On December 14, 2007, **with the GPE/Aquila acquisition hearings on hold**, KCPL advised the Staff and other entities that it was not in the best interest for KCPL to proceed in 2008 with a second 100 MW of wind generation given the current financial market conditions. (emphasis added)

It is not clear to KCPL what Staff intends to imply by referring to the December hearings in the merger proceeding. For clarity, KCPL's decision not to pursue the 2008 Wind Facility is in no way related to the acquisition of Aquila, Inc. ("Aquila") by Great Plains Energy Incorporated ("Great Plains Energy"). KCPL chose not to pursue the 2008 Wind Facility because (i) the KCP&L – Wind 2007 RFP Update indicated that the project barely surpassed the threshold for being economically justifiable at the time the analysis was done; (ii) changes in financial markets created a financial environment that would limit the financial flexibility of the Company with an investment in 2008; and (iii) KCPL does not need the capacity and generation associated with the project at this time. Consequently, KCPL chose not to pursue the project at this time, and as described below, the Regulatory Plan Stipulation unquestionably gives KCPL the discretion to make that decision.

10. OPC contends that KCPL's decision not to construct the 2008 Wind Facility "appears to be caused by market conditions related to one particular financing vehicle (so-called hybrid debt securities) rather than the desirability of the wind project itself." *See*, OPC Response, at 2. This statement is incorrect on two points. First, KCPL's decision was based in part on the overall financing of the project, not just on "one particular financing vehicle." KCPL concluded that financing the project under current market conditions would be unjustifiably risky. The difficulties in the financial markets (which were pervasive across all markets, not limited to just hybrid debt) in the latter part of 2007 caused Great Plains Energy

and KCPL to defer a significant amount of financing from 2007 to 2008. Even *prior to* the addition of the deferred amount, 2008 was already projected to be the highest year for financing requirements under the Comprehensive Energy Plan. In the Company's view, placing even further discretionary reliance on the capital markets, which were projected to improve in 2008 but still remain difficult, for an additional amount beyond those required to meet existing commitments would not have been prudent. This is particularly true given that the project was forecast to provide only negligible if any benefit to customers. Further, KCPL was concerned that foregoing the capital markets and tapping its available sources of short-term liquidity in order to move forward with the wind project would present an unacceptable risk to the Company and its customers because it would reduce KCPL's wherewithal to address unforeseen events, *e.g.*, having to purchase power in response to an unscheduled unit outage or responding to an ice storm or other weather-related event. Second, neither KCPL nor any other utility should consider the desirability of a project without taking into account the cost and risk associated with financing the project. A project might be economically justifiable in a vacuum, but if the cost and/or risk of financing the project is unacceptable, it would be imprudent for the utility to pursue it.

11. When KCPL initially explained that it believed the 2008 Wind Facility was economically justifiable, Staff, OPC, and Praxair indicated that the risk of defending such a decision as prudent would fall entirely on KCPL. But, when KCPL ultimately concluded that it would be prudent to delay proceeding with the project, those same parties cried foul that KCPL made that decision "unilaterally." If the risk of proceeding is KCPL's, then the decision to proceed must also be KCPL's. KCPL's commitment under the Regulatory Plan Stipulation was to evaluate the 2008 Wind Project with input from the Signatory Parties.

KCPL did so and concluded that it would be prudent to delay proceeding with the 2008 Wind Facility.

12. MDNR requests additional information concerning KCPL's decision not to enter into a PPA with a third-party owner for wind generation. KCPL considered and evaluated the possibility of entering into such a PPA, but concluded that doing so would not be in the best interest of the Company or its customers for several reasons. First, KCPL's evaluation of the PPA alternatives it received in response to its RFP consistently indicated that it would be more expensive to enter into a PPA than for KCPL to own the facility. Second, KCPL would also be adversely impacted because a PPA would be treated like debt on the Company's balance sheet, which could further complicate the Company's ability to navigate an already difficult financial market and/or require the issuance of higher cost equity to balance the additional debt. Finally, KCPL does not presently need the energy or capacity that would be associated with the PPA. With these facts in mind, KCPL concluded that it would not be prudent at this time to enter into a PPA for wind energy.

**B. KCPL's Decision Not to Pursue the 2008 Wind Facility Does Not Violate the Regulatory Plan Stipulation.**

13. Staff, OPC, and Praxair point to Section III.B.1.o. of the Regulatory Plan Stipulation to support their assertion that KCPL's decision not to pursue the 2008 Wind Facility somehow violates the agreement. As those parties point out, Section III.B.1.o includes *inter alia* procedures the parties agreed to follow in the event that KCPL sought to change its Resource Plan. However, because the 2008 Wind Facility was never part of KCPL's Resource Plan, the procedural requirements of Section III.B.1.o. do not apply. The Regulatory Plan Stipulation does not include the 2008 Wind Project in its definition of

KCPL's Resource Plan, and KCPL has not included the 2008 Wind Project in its resource modeling because it was not part of its Resource Plan.

*1. The Regulatory Plan Stipulation Does Not Include the 2008 Wind Facility in KCPL's "Resource Plan."*

14. Section III.B.1.o. of the Regulatory Plan Stipulation states that "the term 'Resource Plan' is defined for purposes of this Agreement in Paragraph III.B.1.a." Paragraph III.B.1.a., in turn, defines the "Resource Plan" as the capital investments and customer programs "contained in this Agreement, as more fully described in Paragraph III.B.4. 'Timely infrastructure Investments' and Paragraph III.B.5. 'Demand, Response, Efficiency, and Affordability Programs.'" Because the 2008 Wind Facility does not constitute a demand response, efficiency, or affordability program, there is no need to discuss Section III.B.5., which leaves Section III.B.4.

15. Section III.B.4. provides in pertinent part:

KCPL agrees to undertake commercially reasonable efforts to make energy infrastructure investments as specified in Appendix D from January 1, 2005 through December 31, 2009 and as generally identified in Paragraph III.B.3.a.(iii), III.B.3.b.(iv), III.B.3.c.(iv) and III.B.3.d.(iv), described above.

Thus, under the Regulatory Plan Stipulation, KCPL's Resource Plan is comprised of the energy infrastructure investments "specified in Appendix D ... and as generally identified in Paragraph III.B.3.a.(iii), III.B.3.b.(iv), III.B.3.c.(iv) and III.B.3.d.(iv)." Although KCPL's commitment under the Regulatory Plan Stipulation includes completion or substantial progress being made toward the construction projects in the Resource Plan, the 2008 Wind Facility is not part of that plan.

16. Appendix D, which Section III.B.4. establishes as the definitive list of energy infrastructure investments comprising the Resource Plan, makes no reference to the 2008



Wind Facility. Page D-1 of Appendix D lists the “Projected In-Service Dates” of the “Kansas City Power & Light Strategic Initiative Projects.” The 2008 Wind Facility is not listed among those projects. Similarly, page D-2 of Appendix D provides a table of “Regulatory Initiatives / Amortization Projects.” The table lists the anticipated expenditures for the various Resource Plan projects by year from 2005 through 2009. Significantly, the row labeled “Wind Generation” only includes expenditures for 2005 and 2006, all of which pertain to the now-operational wind generation project located in Spearville, Kansas. There are no expenditures listed for 2007 or 2008 for the potential second wind generation facility. Consequently, Appendix D does not include the 2008 Wind Facility as part of KCPL’s Resource Plan under the Regulatory Plan Stipulation.

17. A review of the other sections referenced above that purport to “generally identify” elements of the Resource Plan, *i.e.*, III.B.3.a.(iii), III.B.3.b.(iv), III.B.3.c.(iv), and III.B.3.d.(iv), reveals only one reference to the 2008 Wind Facility. Section III.B.3.c.(v) provides that KCPL may include the cost of a 2008 wind generation facility in what the agreement designates as “Rate Filing #3 (2008 Rate Case).” Section III.B.3.c.(v) does not obligate KCPL to construct the 2008 Wind Facility, nor does it require KCPL to obtain approval from the Signatory Parties of a decision not to proceed with the project.

18. In sum, the Regulatory Plan Stipulation does not include the 2008 Wind Facility as part of KCPL’s Resource Plan. Consequently, the procedural requirements for altering KCPL’s Resource Plan, as set forth in Section III.B.1.o. of the agreement, do not apply.

2. *The Applicable Provision of the Regulatory Plan Stipulation Gives KCPL the Discretion to Decide Whether to Pursue the 2008 Wind Facility.*

19. Because the 2008 Wind Facility is not part of KCPL's Resource Plan, Section III.B.1.o. of the Regulatory Plan Stipulation does not apply. Instead, Section III.B.4. of the agreement is controlling. It gives KCPL the discretion to decide whether to pursue the 2008 Wind Facility. In pertinent part, Section III.B.4. provides:

An additional 100 MW of new wind generation facilities will be installed in 2008 if a detailed evaluation (made with input from interested Signatory Parties) supports such an action to proceed with its construction.

The Signatory Parties are entitled to provide input into KCPL's evaluation of the 2008 Wind Facility, and KCPL is obligated to consider that input when making its decision whether to construct the project. KCPL solicited input from the Signatory Parties and considered all the input it received. Ultimately, however, KCPL concluded that the evaluation did not support proceeding with the construction of the project at this time. While KCPL appreciates and duly considered the input it received, Section III.B.4. of the Regulatory Plan Stipulation neither requires nor contemplates the approval or authorization of any Signatory Party before KCPL decides whether to proceed with the construction of the project. Under the Regulatory Plan Stipulation, that decision is solely KCPL's.

3. *In Addition to the Above, KCPL Has Complied with All of Its Other Obligations under the Regulatory Plan Stipulation.*

20. In addition to its obligation to consider input from the Signatory Parties concerning its evaluation of the 2008 Wind Facility, KCPL has met all of the other requirements of Section III.B.4. of the Regulatory Plan Stipulation. Section III.B.4. provides:

KCPL shall provide status updates on these infrastructure commitments to the Staff, Public Counsel, MDNR and all other interested Signatory Parties on a quarterly basis. Such reports

will explain why these investment decisions are in the public interest. In addition, KCPL will continue to work with the Staff, Public Counsel and all other interested Signatory Parties in its long-term resource planning efforts to ensure that its current plans and commitments are consistent with the future needs of its customers and the energy needs of the State of Missouri.

21. Pursuant to this commitment, KCPL has provided written quarterly reports, as well as held follow-up meetings to discuss the contents of those reports. The decision not to pursue the 2008 Wind Facility was made in the fourth quarter of 2007, and the report for that quarter includes an explanation of KCPL's decision. It should also be noted, however, that KCPL notified the Signatory Parties of its decision not to pursue the project as contemporaneously as possible with the decision being made. KCPL made its decision on December 13, 2007 and notified the parties on December 14. Moreover, as part of its recent proceedings under Chapter 22—Electric Utility Resource Planning of the Commission's regulations, KCPL worked diligently and productively with Staff, OPC, and other interested Signatory Parties concerning KCPL's long-term resource planning efforts to ensure that its current plans and commitments are consistent with the future needs of its customers and the energy needs of the State of Missouri.

4. *The Commission Should Deny the Relief Requested by Staff and the Other Parties as Unnecessary and Unwarranted.*

22. In Staff's Report and the comments of OPC and Praxair, those parties request that the Commission take no action concerning the Wind Status Report while they seek to exercise their rights under Section III.B.1.o. of the Regulatory Plan Stipulation. Praxair even goes so far as to request that the Commission direct KCPL to comply with the terms of the Regulatory Plan Stipulation.

23. As a preliminary matter, it is not clear to KCPL what additional action the Commission would direct in response to the parties' request. KCPL has not requested and does not require approval of its decision not to construct the 2008 Wind Facility. The only action KCPL requested of the Commission was to open a proceeding to allow KCPL to file the Wind Status Report. The Commission has already done so. No further Commission action is required.

24. In addition, as described above, because Section III.B.1.o. of the Regulatory Plan Stipulation does not apply to the 2008 Wind Project, Staff, OPC, and Praxair are not entitled to the procedural processes they seek to utilize. The Regulatory Plan Stipulation permitted KCPL to determine whether to proceed with the 2008 Wind Facility. After considering all of the information it received, KCPL decided not to pursue the project.

**C. MDNR's Policy Issues While Significant Would be Better Addressed By the Missouri General Assembly.**

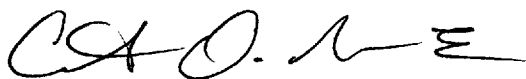
25. In its comments MDNR raises a number of policy issues concerning the development of wind generation resources, and specifically the development of such resources in Missouri. MDNR advocates for greater consideration of issues other than least-cost considerations when evaluating a wind generation project. Specifically, MDNR argues: "Given that Missouri's wind resources are not as robust as wind resources in some other states, other factors could be considered to encourage its development." *See*, MDNR Response, at 4.

26. Under the current legal construct KCPL has an obligation to provide safe and adequate service at just and reasonable rates. It is difficult to justify an intermittent, relatively expensive generation resource, such as wind, under this model. This is particularly true if the policy objective is to increase the development of wind generation projects in Missouri where,

as MDNR correctly points out, the wind resources are not as robust. The Missouri General Assembly is in the best position to determine whether incentives should be provided to utilities to develop wind projects in Missouri.

**WHEREFORE**, for the foregoing reasons, KCPL respectfully requests that the Commission deny the relief requested by Staff and the other parties. KCPL has fully complied with its obligations under the Regulatory Plan Stipulation and no further Commission action is required concerning KCPL's decision not to pursue the 2008 Wind Facility.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand delivered, emailed or mailed, postage prepaid, this 3<sup>rd</sup> day of March 2008 to all counsel of record.

A handwritten signature in black ink, appearing to read "C.D. Blanc", written over a horizontal line.

Curtis D. Blanc