

## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
File No. EA-2011-0368, Application of KCPL for Certificate of Public Convenience and Necessity to Acquire, Construct, Install, Own, Operate, Maintain, and Otherwise Control and Manage Electrical Production and Related Facilities in the Smart Grid Project Area of Jackson County, Missouri

FROM: Lena M. Mantle, Energy Department

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Energy Department / Date

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Staff Counsel's Office / Date

SUBJECT: Staff Recommendation to Partially Grant Application and Issue Certificate of Convenience and Necessity

DATE: May 27, 2011

### RECOMMENDATION

The Staff finds that all Commission rule requirements for a Certificate of Convenience and Necessity (CCN) have been met. However, upon advice from Staff Counsel, it is the Staff's position that as a result of *State ex rel. Cass County v. Public Service Commission*, 259 S.W.3d 544 (Mo. App. 2008), in order for the Commission to grant a CCN, the utility must specify the location where the generation is being built. Kansas City Power & Light Company ("KCPL" or "Company"), in its application did not specify where the solar panels would be installed. It amended its application on May 27, 2011, to specify the locations where 105 kilowatts (kW) of solar power would be installed, but at this time has not supplied where the other estimated 75 kW of solar generation would be installed. Therefore Staff recommends that the Commission only grant KCPL a CCN for the specific capacities at the specific the sites that are listed in the amendment to its application.

The Staff recommends that KCPL's request for a waiver from the requirements of 4 CSR 240-4.020 be granted. The Staff also recommends that the Commission's Order

should state that a determination as to the appropriate ratemaking treatment for this facility is not being made at this time.

### **OVERVIEW**

On May 6, 2011, KCPL filed an Application and Request for Waiver of 4 CSR 240-4.020 (Application) with the Missouri Public Service Commission (Commission) seeking a CCN to acquire, construct, install, own, operate, maintain and otherwise control and manage electrical production and related facilities in Kansas City, Missouri. In its Application, KCPL requests that the Commission grant its request by June 15, 2011. The waiver request is in regards to the Ex Parte and Extra Record Communications Rule.

On May 11, 2011, the Commission issued its *Order Establishing Intervention Date and Directing Staff To File Recommendation* in File No. EA-2011-0368. The *Order* directed Staff to file its recommendation by no later than May 27, 2011. The Missouri Department of Natural Resources is the only party that intervened in this case, and did so on May 23, 2011.

The electrical production facilities that are the subject of the Application include one hundred eighty kilowatts (kW) of generation which KCPL describes as small rooftop solar facilities in KCPL's Smart-Grid Demonstration Area. The Application states that the exact locations of the project installations are yet to be determined. The Application states that the project will be comprised of installations similar in size to the following:

Schools	100 kW
Tier 1 Customer(s)	30 kW
Neighborhood Associating Facility	20 kW
Community Center	10 kW

Customer Residence(s) 5 kW

KCPL Substation 5 kW

Commission Rule 4 CSR 240-3.105 has a list of requirements for applications for certificates of convenience and necessity such as that sought by KCPL in this Application. Commission Rule 4 CSR 240-3.105(2) states that “if any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.”

On May 27, 2011 KCPL filed an amendment that specified that the Company had determined the location of two of the projects. They are:

- Up to 100 kW installation at Paseo Academy of Performing Arts, 4747 Flora, Kansas City, MO 64110; and
- 5 kW installation at KCP&L Midtown Substation, 1223 E. 48th Street, Kansas City, Missouri 64112.

The Application provided that project plans would be submitted at a later date. On May 24, 2011, KCPL provided Staff with a Proprietary and Confidential copy of its Request for Proposal for the 100 kW installation listed above. At this time, no other Requests for Proposals have been issued by KCPL. The bidding process associated with the RFP is not complete at this time. KCPL also provided plans and specifications for a similar customer-owned project that was recently installed.

4 CSR 240-3.105(1)(B)2 requires, “the plans and specifications for the complete construction project and estimated cost of the construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished.” The Application includes total estimated cost of

“approximately \$1,340,000.” However, the only plans and specifications for the production facility that have been provided are the RFP and the plans and specifications for a similar project which is approximately one-third the size of the proposed 100 kW installation at the Paseo Academy of Performing Arts, 4747 Flora, Kansas City, Missouri. Even so, based on the Application, the additional information provided by KCPL to Staff regarding the production facility plans, and the fact that the planned solar arrays will primarily be made up of off-the-shelf components, Staff maintains that the requirements of 4 CSR 240-3.105(1)(B)2 have been met.

After reviewing the Application as amended, the Staff has determined that there are no other affected utility lines that are located on the proposed construction sites and, therefore, the list required by 4 CSR 240-3.105(1)(B)1 has been provided. In the Application KCPL states that it plans to finance the project using general KCPL funds and the United States Department of Energy will reimburse the Company one-half the costs for the Project; therefore the requirements of 4 CSR 240-3.105(1)(B)3 have been met.

The Commission’s Rule 4 CSR 240-3.105(1)(C)-(D) require either a statement that no evidence of approval of the affected governmental bodies is necessary, or when consent is required, approval should be shown by a certified copy of the document granting consent, or an affidavit of the applicant that consent has been granted; and a certified copy of the required approval of other governmental agencies. In its Application, KCPL states that building permits will be obtained at a future date and KCPL will submit such permits as soon as they are available. The Application indicates that the appropriate government approvals have been granted to date and additional governmental approvals will be sought at the appropriate time.

Finally, in the Application KCPL discusses “the facts showing that the granting of the application is required by the public convenience and necessity” pursuant to 4 CSR 240-3.105(1)(E). In the Application, KCPL discusses the advantages of additional renewable energy resources which include the generation of renewable energy credits that would be eligible for use in the Commission’s Electric Utility Renewable Energy Standard Requirements (and possibly CO<sub>2</sub> credits) and of a location that “will provide environmental benefits as well as providing a diversified energy resource to serve the community.”

### **STAFF RECOMMENDATION**

The Staff has reviewed KCPL’s Application, as amended, as well as the subsequently supplied RFP, plans, and specifications. The Staff has also had discussions with KCPL personnel regarding this project.

The Staff notes that in Case No. EA-2006-0309<sup>1</sup> the Staff used a ten-step process to determine a reasonable site for Aquila’s natural gas-fired simple cycle electric power plant.

Those steps follow:

- 1) Identification of areas within a utility’s service territory where significant energy usage is occurring and areas where energy usage is expected to increase;
- 2) Identification of areas noted in step (1) that are not in close proximity to existing generation facilities, are near an existing generation facility that will likely be retired in the near future, are near an existing generation facility that has room for additional generation units, or are near an area where required energy needs are expected to significantly exceed an existing generating facility’s capabilities;
- 3) Identification of major natural gas transmission pipelines that have sufficient available capacity, adequate pressure and access to natural gas supplies to serve

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<sup>1</sup> In the Matter of the Application of Aquila, Inc. for Permission and Approval and a Certificate of Public Convenience and Necessity Authorizing it to Acquire, Construct, Install, Own, Operate, Maintain, and otherwise Control and Manage, and otherwise Control and Manage Electrical Production and Related Facilities in Unincorporated Areas of Cass County, Missouri Near the Town of Peculiar

such a prospective generation facility and pass through the areas identified in step (2);

4) Identification of electric transmission lines that have sufficient available capacity, or can be reasonably upgraded, to serve such a prospective generation facility, provide transmission to the areas that need to be served by the planned generation facility and pass through the areas identified in step (2);

5) Identification of areas where the natural gas transmission pipelines in step (3) and the electric transmission lines in step (4) come within a reasonable distance of each other;

6) Review county plat books for the areas identified in step (5) to determine if there are properties in the areas identified in step (5) that appear suitable for such a prospective generation facility and begin visiting with landowners to determine ability to purchase potential parcels of land for such a prospective facility;

7) Carefully evaluate each of the potential sites identified in step (6) for line-of-site population density, natural buffers between the generation facility and nearby residents or the ability to construct buffers, natural gas pipeline extension cost, transmission line upgrade and extension costs, land acquisition cost, suitability of geology for construction of generation facility foundations, emissions compliance cost, possible air or land permitting problems, access to other needed infrastructure such as water and other potential costs to address potential concerns of the nearby communities and residents;

8) Communicate with any nearby communities and residents to receive feedback on concerns with construction of the planned generation facility in the area;

9) Address concerns of the nearby communities and residents to the greatest extent possible associated with the “optimal site”; and

10) If the concerns of the nearby communities and residents cannot be addressed at the “optimal site”, go back to step (6) to determine if another site is reasonable and repeat the steps after step (6), unless there are reasons why going back to step (6) is not reasonable.

While this process is reasonable when locating a natural gas-fired simple-cycle electric power plant, many of the steps are not applicable to locating a solar array. However, many of the general concepts—like gaining the support of the landowner and gaining the support of the local community—are applicable.

The Staff understands that this project has the approval of the appropriate affected governmental bodies, including local authorities.

The installed cost per Watt based on the filing is \$7.44, which reflects current cost estimates that Staff has seen. Even so, the prudence of this project should be determined at the time the project is included in rate base, just as it is with other capital projects.

KCPL has also addressed the concerns of local community and landowners. Since this project is a very small generation project for a utility the size of KCPL its plan to finance the plant using general funds is reasonable.

In conclusion, the Staff finds that all Commission rule requirements for a Certificate of Convenience and Necessity have been met, and that for reasons listed above recommends the Commission partially approve KCPL's Application for a Certificate of Convenience and Necessity (CCN) to acquire, construct, install, own, operate, maintain and otherwise control and manage electrical production and related facilities in Kansas City, Missouri. The Staff recommends that KCPL's request for a waiver from the requirements of 4 CSR 240-4.020 be granted. The Staff also recommends that the Commission's Order should state that a determination as to the appropriate ratemaking treatment for this facility is not being made at this time. Finally, the Staff recommends that the Commission Order KCPL to file the specific locations of the components of the project when this information is available.

The Application was filed pursuant to Section 393.170 RSMo., 4 CSR240-2.060 and 4 CSR 240-3.105. KCPL has filed its annual report and the Staff is not aware of any other matter before the Commission that affects or is affected by this filing.