

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

Staff of the Missouri Public Service Commission)	
)	
Complainant,)	
)	
v.)	Case No. EC-2009-0430
)	
KCP&L Greater Missouri Operations)	
and Kansas City Power & Light)	
Company,)	
Respondents.		

STAFF'S MOTION FOR SUMMARY DETERMINATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and respectfully moves for Summary Determination under 4 CSR 240-2.117(1).

SUMMARY DETERMINATION

Staff moves the Commission for Summary Determination pursuant to Commission Rule 240-2.117(1) because there are no genuine issues of material fact in dispute and Staff is entitled to relief as a matter of law. Respondents admit the fact that GMO has operated under the unregistered and unapproved name "KCP&L" since November 2008; therefore, the Commission should dispose of the case summarily.

STATEMENT OF UNCONTROVERTED MATERIAL FACTS

1. Complainant is the Staff of the Missouri Public Service Commission, acting through the Commission's Chief Staff Counsel under authority delegated by the Commission's General Counsel as authorized by Commission Rules 4 CSR 240-2.010(6), 4 CSR 240-2.040(1), and 4 CSR 240-2.070(1). (Respondents' Answer, p.6, n. 15).

2. Respondent Kansas City Power & Light Company (“KCPL”) is a Missouri general business corporation in good standing, formed on July 29, 1922, with its principal place of business located at 1201 Walnut Street, Kansas City, Missouri 64106. Its registered agent is National Registered Agents, inc., 300-B East High Street, Jefferson City, Missouri 65101. KCPL is an integrated electric utility that provides electricity to customers primarily in the states of Missouri and Kansas. (Respondents’ Answer, p.6, n. 15).

3. Respondent KCP&L Greater Missouri Operations Company (“GMO”) is a Delaware general business corporation in good standing, duly qualified to do business in Missouri since March 27, 1987, with its principal place of business located at 1201 Walnut Street, Kansas City, Missouri 64106. Its registered agent is CT Corporation System, 120 South Central Avenue, Clayton, Missouri 63105. GMO is an integrated, electric utility that primarily provides electricity to customers in the state of Missouri. (Respondents’ Answer, p.6, n. 15).

4. Both Respondent KCPL and Respondent GMO are wholly-owned subsidiaries of Great Plains Energy Incorporated (“GPE”), a publicly-traded Missouri general business corporation in good standing, formed on February 26, 2001, with its principal place of business located at 1201 Walnut Street, Kansas City, Missouri 64106. Its registered agent is National Registered Agents, Inc., 300-B East High Street, Jefferson City, Missouri 65101. In Securities and Exchange Commission filings and on its corporate website, GPE represents that, through KCPL and GMO, it provides retail electric service to some 820,000 customers in Missouri and Kansas. GPE also represents that it controls generation assets rated at more than 6,000 MW. (Respondents’ Answer, p.6, n. 15).

5. GPE acquired Respondent GMO, then called “Aquila, Inc.,” on July 14, 2008, pursuant to authority granted by the Commission in its Report & Order in case No. EM-2007-

0374, issued on July 1, 2008, and effective on July 11, 2008 (“July 1st Report & Order”).¹ (Respondents’ Answer, p.6, n. 15).

6. Pursuant to the order of the Commission set out in the July 1st Report & Order, Respondent KCPL and Respondent GMO on October 10, 2008, executed and filed their Joint Operating Agreement in Case No. EM-2007-0374, in which Respondent KCPL was designated as Respondent GMO’s agent and operator of its business and properties and expressly accepted responsibility therefor. (Respondents’ Answer, p.6, n. 15).

7. The Commission’s Report & Order in Case No. EM-2007-0374 denied Respondent’s request to change the name of “Aquila, Inc.,” as Respondent GMO was then known. The Commission directed GMO to pursue a name change action under the Commission’s practice rules. (Respondents’ Answer, p.6, n. 15).

8. On July 2, 2008, Respondent GMO filed tariff sheets and initiated a name change proceeding, docketed as Case No. EN-2009-0015, seeking authority for GMO, then still known as “Aquila, Inc.,” and which had been operating as “Aquila Networks – L&P” and “Aquila Networks – MPS,” to operate as “Aquila, Inc., doing business as KCP&L Greater Missouri Operations Company.” Upon satisfactory proof that the new fictitious name had been duly registered with the Missouri Secretary of State, the Commission granted the requested authority on August 7, 2008, effective August 8, 2008. (Respondents’ Answer, p.6, n. 15).

9. On November 3, 2008, Respondent GMO filed tariff sheets and initiated a name change proceeding, docketed as Case NO. EN-2009-01644, seeking authority for GMO to change its name from “Aquila, Inc., doing business as KCP&L Greater Missouri Operations,” to “KCP&L Greater Missouri Operations.” Upon satisfactory proof that the new name had been

¹ *In the Matter of the Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company and Aquila, Inc.*, Case No. EM-2007-0374 (Report & Order, issued July 1, 2008), p. 281 ff.

approved by the Delaware Secretary of State and duly registered with the Missouri Secretary of State, the Commission granted the requested authority on November 8, 2008, effective December 3, 2008. (Respondents' Answer, p.6, n. 15).

10. Respondent KCP&L Greater Missouri Operations Company ("GMO") is authorized by the Commission to operate under the name "KCP&L Greater Missouri Operations Company" and no other name. *See* Order in EN-2009-0164.

11. Respondents, the Companies, did not register its fictitious business name, "KCP&L" with the Missouri Secretary of State until June 1, 2009. *See* Exhibit A.

12. Respondent GMO, under the direction of Respondent KCPL issued approximately 1,350,828 bills to its customers in which it identified itself as "KCP&L." (Respondents' Answer, p.6, n. 15).

13. Respondent GMO, under the direction of Respondent KCPL, expended approximately \$56,605 during July and August 2008 to place signs at some 221 locations owned by Respondent GMO that identify the owner as "KCP&L." (Respondents' Answer, p.13, n.35).

14. Respondent GMO's schedule of rates are maintained on the Commission's EFIS system under the name "KCP&L Greater Missouri Operations Company." The schedule of rates of Respondent GMO is not maintained under "KCP&L"; nor are any rates maintained under that name. (Respondents' Answer, p.17, n. 46).

15. Respondents caused GMO to operate as "KCP&L," although that business name has never been approved nor acknowledged by the Commission and was not registered with the Missouri Secretary of State until June 1, 2009, after this complaint had been filed. ¶¶ 10-14.

WHEREFORE, Staff moves the Commission to grant summary determination in Staff's favor because the uncontested facts establish that Respondents caused GMO to operate

under an unapproved and unauthorized fictitious name, and to direct its General Counsel to pursue penalties against Kansas City Power & Light and KCP&L Greater Missouri Operations in the Circuit Courts of this State.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 2nd day of October, 2009.

/s/ Jaime N. Ott