

**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 Chang-) **ER-2009-0089**
es in its Charges for Electric)
Service To Continue the Implementa-)
tion of Its Regulatory Plan)

In the Matter of the Application of)
KCP&L Greater Missouri Operations)
Company for Approval to Make Cer-) **ER-2009-0090**
tain Changes in its Charges for)
Electric Service)

In the Matter of the Application of)
KCP&L Greater Missouri Operations)
Company for Approval to Make Cer-) **HR-2009-0092**
tain changes in its Charges for)
Steam Heating Service)

MOTION FOR EXTENSION OF TIME TO RESPOND

COME NOW Praxair, Inc., Midwest Energy Users' Association, Wal-Mart Stores, Inc., Sedalia Industrial Energy Users' Association, Ag Processing, Inc., a cooperative, (collectively "Industrial Intervenors"), the Office of the Public Counsel ("OPC") and the United States Department of Energy, National Nuclear Security Administration and Federal Executive Agencies ("USDOE/NNSA") and respectfully request additional time in each of these cases to respond to the Status Report and Motion that was filed herein by Kansas City Power & Light Company ("KCPL") and KCP&L Greater Missouri Operations Company ("GMO") on March 2, 2009 and in support state:

1. Although on its face, the Status Report and Motion disclose only a limited "occurrence" at the Iatan 1 site concerning the restart of the turbine at that location. This occurrence set back the start up schedule by a presently undetermined amount of time, but the Status Report and Motion's "only request is to extend until April 30 2009 the deadline for demonstrating the AQCS equipment satisfies the technical in-service criteria."

2. The significance of this requested extension, however, goes far deeper and is significantly more complex than this "only request" would appear to suggest. Issues of compliance, prudence in start-up operations, in-service criteria, and the critical implications of the true-up audit are all involved.

3. On March 2, 2009, shortly after the Status Report and Motion was filed, the Commission directed that responses to this filing be made by 4:00 p.m. on March 6, 2009, less than 72 hours after the filing.

4. While the Status Report by itself was not unexpected, the included Motion and that Motion's full implications were not. These parties are simply unable, given the dearth of data that is presently available, to assess the implications of this Motion so as to prepare an intelligent response. In addition, Commission Staff, which has a major role in attempting to formulate a response to this motion and address its multipart implications, has not been heard from. For example, the Motion asserts (p. 2, paragraph 3) that "technical in-service criteria" have been agreed to between KCPL and Staff "in consultation with

OPC." Yet the other parties to this case have seen no such document or listing of such criteria, no nonunanimous stipulation and agreement pertaining to such criteria has been submitted. Bluntly, if such an agreement even exists, we have seen no evidence of it. Certainly the determination of whether a unit meets the requirements of some as yet unknown "in-service criteria" cannot be determined without access to this critical information. These parties cannot be expected to engage in a "blind flying" expedition involving ratepayer funds of this magnitude. In addition there is no term "Technical in-service criteria" contained in the construction contract. Instead the construction contract contains a provision "** Highly Confidential Information Removed

***." The Status Report and Motion contains no statement about whether or when "final completion" of Unit 1 will occur. Exhibit E par. 1.8.2 Conditions Precedent to Unit 1 Substantial Completion requires:

** Highly Confidential Information Removed

**

There is no statement or indication in the Status Report and Motion that subparagraph (d) above has been complied with.

5. KCPL attached an affidavit to its Status Report and Motion, appearing to assert financial *extremis*. Whether or not having merit, these untested assertions cannot be relied upon to support unnecessary urgency upon this Commission so as to deny

the undersigned parties an effective opportunity to respond to this Status Report and Motion and to the significant issues that are raised by such a request.^{1/}

6. The Motion fails to provide any basis for such expedient action by the Commission. For instance, KCPL does not propose any "changes to the previously scheduled dates for the following procedural events: Evidentiary Hearings, Initial Post Hearing Briefs, Reply Briefs, and Proposed Findings of Fact and Conclusions of Law." Given that KCPL does not propose any schedule changes, but instead merely proposes a change to a true-up date that is still approximately two months away, the urgency of this action is overblown. By giving the parties additional time to respond, all parties will have a better idea of whether the turbine will be reassembled properly by March 10, whether start-up activities can commence shortly thereafter, and whether the unit will be generating at full capacity by March 22. Currently, KCPL is asking the parties to shoot at a target that has been and remains in a constant state of flux.

7. The undersigned parties are requesting only a brief extension, through Wednesday, March 11, 2009, to submit their response to the Motion. By waiting until this date, the parties can better understand the implications of the KCPL Motion as well as being allowed to determine if the HP turbine is reassembled and start-up operations recommenced as suggested by

^{1/} Certain parties are filing separately an objection to this affidavit and request that a hearing be held on the assertions contained therein.

KCPL. Practically, the Commission would not be expected to address the matter until Tuesday at the earliest even if a response and perhaps later if a further reply were to be submitted by KCPL, et. al., even if a response could be patched together and filed by 4:00 p.m. on Friday. Accordingly, permitting these parties to have the weekend to submit a response will not delay the proceedings at all.

8. Alternatively, because the response and position of Commission Staff is critical to the evaluation by these parties (each of whom has their own ethical obligations to their respective clients), it also would be preferable to allow Staff to respond and provide not more than three days for these parties to review, analyze and integrate Staff's presently unknown position into their response.

WHEREFORE the undersigned parties respectfully request that they be granted through March 11, 2009 to submit their response to the Status Report and Motion; alternatively that they

be granted three days beyond the filing of Staff's response to the Status Report and Motion to timely file their response.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means, by United States Mail, First Class postage prepaid, or by hand delivery to all known parties in interest upon their respective representatives or attorneys of record as reflected in the records maintained by the Secretary of the Commission through the EFIS system.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad

Dated: March 5, 2009