

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

In the Matter of the Resource Plan of)
Kansas City Power & Light Company)

File No. EO-2012-0323

**SIERRA CLUB’S OPPOSITION TO KANSAS CITY POWER & LIGHT
COMPANY’S MOTION TO STRIKE**

Comes now Sierra Club and respectfully opposes Kansas City Power & Light Company’s (“KCP&L”) motion to strike Sierra Club’s November 19th comments and request for hearing (“November Filing”). Sierra Club’s November Filing is expressly authorized by 4 CSR 240-22.080(10), responds to statements made by KCP&L and the company’s refusal to address the deficiencies and concerns that Sierra Club properly raised in its September 6, 2012 comments (“September Comments”) in this docket, and does not raise any new deficiencies or concerns. Accordingly, KCP&L’s motion to strike the November Filing is without merit.

The November Filing is expressly authorized by 4 CSR 240-22.080(10), which provides that “[i]f full agreement on remedying deficiencies or concerns is not reached,” then on the same day that the parties make their joint filing under 4 CSR 240-22.080(9), “the electric utility may [also] file a response and the staff, public counsel, and any intervenor may file comments in response to each other.” In this case, Sierra Club was the only party that chose to file comments separately from the joint filing, but KCP&L and every other party had an opportunity to do the same. KCP&L’s failure to do so does not mean that the Commission should strike Sierra Club’s November Filing.

Although KCP&L in its motion to strike makes a sweeping statement that Sierra Club’s November Filing “expand[s] on its alleged deficiencies” (KCP&L Mot. to Strike at 2), KCP&L has not pointed to a single example of a new deficiency or concern raised by Sierra Club in the

November Filing. This is likely because KCP&L cannot do so: the November Filing did not raise any new deficiencies or concerns that were not already properly raised in the September Comments. Rather, each section of the November Filing begins by summarizing a deficiency or concern from the September Comments, after which it describes how KCP&L has failed to address that deficiency or concern in the joint filing and discussions with the parties.

As directed by 4 CSR 240-22.080(9), Sierra Club participated in discussions with KCP&L and the other parties regarding the possibility of reaching a joint agreement that would resolve its deficiencies and concerns. In those discussions, KCP&L took the position that its 2012 IRP filing is adequate and that any unaddressed deficiencies or concerns would be addressed in a new integrated analysis that it will prepare in connection with its 2013 annual update filing. (November Filing at 1-3.) Such new integrated analysis would potentially incorporate such significant changes (such as substantially lower natural gas price projections and a study of the full potential of demand side management (“DSM”) programs, both of which KCP&L should have, but failed to, incorporate in its 2012 IRP filing) that, as even KCP&L acknowledges, it will function more like a complete rewrite of the company’s triennial compliance filing rather than as an update to it. (*Id.* at 2.) In light of KCP&L’s proposed approach, the November Filing urges the Commission to defer any final order regarding the adequacy of KCP&L’s 2012 IRP until after the new integrated analysis is filed with the 2013 update and any appropriate hearing is held.

KCP&L’s responses to deficiencies and concerns raised by the parties to its analysis of DSM programs provide a good example of this. In the joint filing, KCP&L repeatedly responds to deficiencies raised by Staff and Missouri Department of Natural Resources that the company failed to satisfy basic IRP requirements regarding the evaluation of DSM by saying that the

deficiencies will be addressed in its 2013 update. (*See* Joint Filing ¶¶ 26-34.) As noted in the November Filing, however, Sierra Club has raised substantially similar deficiencies, and in the November Filing Sierra Club urges the Commission to find that KCP&L's proposed resolution for those deficiencies is inadequate, in part because it would punt the consideration of DSM that should have occurred in the 2012 IRP to an annual update filing on which parties typically are not entitled to a hearing. (November Filing at 3-4.)

KCP&L should not be allowed to benefit from its delay in addressing the significant deficiencies and concerns with its 2012 IRP filing until the 2013 update by avoiding any hearing on those deficiencies and concerns. Accordingly, Sierra Club submitted its November Filing to request that the Commission extend the schedule for this docket to allow for the parties to request a hearing after KCP&L submits its 2013 update, deferring any final decision on the adequacy of KCP&L's 2012 IRP filing until after the company submits its new integrated analysis. (*Id.*) Such an extension would be the best and most efficient way to address the unresolved deficiencies and concerns with KCP&L's 2012 filing, as it would allow the Commission and the parties to have the benefit of KCP&L's new integrated analysis while maintaining the robust public participation, opportunity for a hearing, and final Commission order that are all critical components to ensuring compliance with the Missouri IRP rules. (*Id.*)¹

Although this hearing request is, in a sense, "new," Sierra Club properly put it forward in the November Filing in response to KCP&L's repeated statements in the joint filing and to the parties regarding its plan to address numerous deficiencies and concerns by doing a new

¹ In the alternative, Sierra Club respectfully requests that the Commission set a schedule now for a hearing on its deficiencies and concerns. (November Filing at 2.) KCP&L should not be allowed to benefit from its delay in addressing the significant deficiencies and concerns with its 2012 IRP filing until the 2013 update. Given the scope and magnitude of the deficiencies and concerns with KCP&L's 2012 IRP filing, without which KCP&L would not have been able to plausibly justify its preferred resource plan, the Commission should reject KCP&L's filing and require the company to submit a revised plan.

integrated analysis in its 2013 update. Sierra Club's request for a hearing is appropriate for the Commission to consider now, in connection with Sierra Club's November Filing responding to KCP&L, because KCP&L is now asking the Commission to approve its IRP, notwithstanding numerous unaddressed deficiencies and concerns. The November Filing explains to the Commission, from Sierra Club's perspective, why the parties were not able to reach agreement on its deficiencies and concerns and why the Commission should hold a hearing either now or after KCP&L submits its new integrated analysis.

For the reasons set forth above, Sierra Club made the November Filing, consistent with 4 CSR 240-22.080(10), to respond to KCP&L and request that the Commission hold a hearing on the unaddressed deficiencies and concerns, to occur preferably after KCP&L submits its 2013 update. As there is no basis in law or fact to strike the November Filing, Sierra Club respectfully urges the Commission to deny KCP&L's motion to strike.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and sent by email on this 7th day of December, 2012, to all counsel of record.

/s/ Shannon Fisk
Shannon Fisk