

**KCP&L Comments Regarding
Demand Response Aggregator Draft Rule Dated January 7, 2011
Case No. EW-2010-0187**

Kansas City Power & Light Company (“KCPL”) and KCP&L Greater Missouri Operations Company (“GMO”) (collectively, “KCP&L”) reviewed the draft rule distributed by the Commission Staff and propose a number of changes to that draft. More broadly, however, KCP&L believes it is appropriate for the Commission and the participants in this docket to seriously evaluate a number of fundamental policy questions before investing the time and resources involved in proceeding further along the path of developing the details of a rule. Determinations should be made regarding the general direction of this proceeding and the basic policy parameters before the details of any rule can be written.

Cost-Benefit Evaluation

KCP&L recommends that retail participation in the Regional Transmission Organization (“RTO”) wholesale markets not be implemented until a thorough study of the issue has been performed, including an assessment of the costs and potential benefits for all classes of customers. Absent such an analysis, implementation of this rule may result in benefits for a relatively small group of large customers that are able to participate in the wholesale markets, while increased costs are transferred to the large majority of customers that do not participate. Study of this issue should take into account the following considerations:

- 1) Determine whether the benefits of retail participation in the wholesale market can undercut the effectiveness of the utility’s capacity-focused demand response programs if capacity resources are converted to energy-only resources. In particular, this is a concern where the market of the RTO offers only non-firm energy without a capacity market, as is the case in Southwest Power Pool (“SPP”). In such a situation, retail demand response resources can shift from the utility’s demand response program, where they provide capacity value, to the non-firm wholesale energy market, where they provide no capacity value. The result can be increased cost for retail customers as the utility is forced to replace the demand response with supply-based capacity resources.
- 2) Estimate the potential economic impact of both retail participation in wholesale markets that offer only energy service and retail participation in wholesale markets that offer both energy and ancillary services. The distinction between these two types of markets is not recognized in the proposed rules, but the two markets will differ in operation, cost, and benefit associated with retail participation. The Midwest Independent Transmission System Operator (“MISO”) market would offer both types of participation to retail customers but the SPP market would offer only energy service during the next few years.

3) Assess the administrative costs that would result from retail participation in wholesale markets. These administrative costs include a number of complex utility metering, billing, and accounting issues associated with the treatment of “reconstituted load”, which is the estimated demand response for which the RTO will charge the utility at the locational marginal price. The draft rule is silent about recovery of administrative costs required to support retail participation in wholesale markets. Without such clarification, administrative costs likely will be borne by retail customers as a whole rather than those directly participating in the wholesale market.

4) Depending on the treatment of the Marginal Forgone Retail Rate (“MFRR”) or the direct billing of reconstituted load, retail participation in the wholesale power market can result in a cost transfer from participating to non-participating customers. Such a potential cost transfer should be analyzed in the process of evaluating the benefits of retail participation in the wholesale markets, and if such participation is permitted, the structure of the pricing incentives.

5) Assess the potential confusion of retail customers with aggregators and utilities competing for RTO and utility demand response program load.

Conditions for Allowing Retail Participation in Wholesale Markets

If the Commission does make a determination to permit retail participation in wholesale markets administered by the RTOs, the following additional points should be explicitly addressed in the provisions of the rule:

1) The draft rule does not clearly define the role of the local utility, including whether or not it is included within the definition of “Aggregator of Retail Customers”, whether it can perform the same function as an aggregator in the RTO market even if not included within the definition, and whether it may serve as a central point of coordination for its service area’s retail participation in wholesale markets. Sections 2 and 3 of the draft rule imply that the utility is not an aggregator, but do not clarify what functions the utility can or should perform with regard to demand response in the wholesale market. One possibility is for the utility exclusively to perform the function of an aggregator for any load within its service area or to contract with another company to perform this service exclusively on behalf of the utility. This arrangement can provide important advantages in facilitating close coordination between the local utility and customers and ensuring reliable operation of the distribution and local transmission systems.

2) The draft rule should clarify that a customer that provides demand response through on-site generation may not produce more electricity at any point in time than the customer’s own aggregate demand for power. Such a situation does not fall within the scope of retail demand response because the customer would no longer be modifying its own demand, but rather would be pushing power onto the distribution or transmission electrical grid. In that case, the customer would be required to qualify and operate under the existing state and federal regulatory framework for non-utility generators, such as those that pertain to Qualifying Facilities or independent power producers.

3) The draft rule should address the issue of reconstituted load, which is a key feature of the RTO markets' implementation of retail demand response participation. For example, the draft rule does not distinguish between the proposed treatment of reconstituted load in the MISO region as compared to the proposed treatment in the SPP region. In MISO, revenue associated with reconstituted load may be recovered by the utility in whole or in part through an MFRR if it is set at a non-zero level. In SPP, revenue associated with reconstituted load may be recovered by the utility through direct billing of the individual customer on the standard retail rates if such billing is permitted by the Commission. The draft rule is completely silent on the appropriate treatment of such load in the SPP market, which is a critical omission.

4) The issue of the MFRR (MISO) and billing reconstituted load (SPP) needs to be addressed as an integral component of any rule authorizing participation of retail demand response in the wholesale market. In essence, the draft rule sets the MFRR at zero due to its postponement of this critical decision; the rule's omission of the process for billing reconstituted load in the SPP market appears to have the same effect. The economic incentives of retail participation in wholesale markets, the total benefits achieved by such participation, and the potential for cost transfers among customer classes are all substantially impacted by policy regarding MFRR and reconstituted load billing. The Organization of MISO States, supported by the Missouri Public Service Commission, filed comments at FERC that clearly outlined the economic issues associated with this element of demand response participation in the wholesale market [FERC Docket No. ER09-1049-002, comments filed Nov. 5, 2009]. Failing to address this question directly as a fundamental element of the framework for retail participation in wholesale markets would be an inappropriate establishment of policy by default. Consideration of setting the MFRR and authorizing reconstituted load billing should take into account several factors, including the following:

- a) The assessment of the level of MFRR and billing reconstituted load should address the fact that the utility continues to bear the cost, not only for transmission and distribution functions, but also for the power reserves and capacity for all retail load that provides demand response in the SPP market. A retail customer's participation in the wholesale market does not relieve the local utility of the obligation to serve that customer's total electrical demand at any time. Therefore, the utility needs to recover all of these costs in the determination of retail rate treatment.
- b) The utility will continue to bear the financial cost of the reconstituted load as billed by the RTO.
- c) The determinations regarding MFRR and reconstituted load billing need to address the marginal price incentives provided to demand response resources and evaluate whether those incentives are comparable to those provided to generation resources. In order to achieve an economic outcome, demand response resources should not be provided marginal incentives that differ from those provided to generation.

Comments Regarding Specific Provisions of the Draft Rule

KCP&L has the following additional comments regarding specific provisions of the draft rule:

- 1) Limiting the participation to a fixed number of megawatts is appropriate. KCP&L prefers a limit of less than 100 MW as a first step, such as 10 MW for the KCPL system and 5 MW for the GMO system, but the concept of a limit is useful at the outset. From an administrative standpoint, a limit would be more easily applied during the registration process rather than during operations. The registration should require the customer or aggregator to state the maximum amount of load response that may be provided, in a similar manner to generators that are required to state their maximum capacity. This information should be provided to both the Commission and the local utility.
- 2) As provided in Sections 2.d and 3 of the draft rule, preventing customers from being simultaneously enrolled in both the utility's demand response program and the wholesale demand response program is helpful in that it lessens the potential for double-dipping.
- 3) Distinguishing between participation in the ancillary services wholesale market and the energy wholesale market is a needed clarification, but only for the MISO market at this time.
- 4) As provided in Section 4 of the draft rule, requiring a public interest test before allowing residential customer participation in wholesale markets is an appropriately deliberate approach. KCP&L suggests that such a test should be applied before allowing wholesale market participation by commercial and industrial customers also.
- 5) Regulation service, spinning reserves, and supplemental reserves should be included in the list of ancillary services contained in the draft rule. These are three of the ancillary services that FERC includes in its pro forma tariff.
- 6) The term "Business Practice Manual" is not applicable to the SPP market. The detailed rules for retail participation in the wholesale market will be contained in the SPP Market Protocols and the more general provisions will be contained in the SPP Open Access Transmission Tariff.
- 7) The term "Economic Demand Response" can be misleading. One possible alternative is to replace it with the term "Energy Demand Response", which can be more clearly distinguished from "Ancillary Services Demand Response".
- 8) In Section 1.o, the term "registered entity" needs to be more specific to link the registration with market participation.
- 9) In Section 1.p, the definition of MFRR is not applicable to SPP. For SPP purposes, rules are needed to authorize the retail billing of reconstituted load.