

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Future Supply,	)	
Delivery and Pricing of the Electric	)	
Service Provided by Kansas City	)	Case No. EW-2004-0596
Power & Light Company	)	

In the Matter of the Future Supply,	)	
Delivery and Pricing of the Electric	)	
Service Provided by Kansas City	)	Case No. EO-2004-0577
Power & Light Company	)	

**RESPONSE OF KANSAS CITY POWER & LIGHT COMPANY  
TO MOTION TO TERMINATE PROCEEDING FILED BY PRAXAIR, INC.  
AND MOTION TO RE-OPEN CASE NO. EO-2004-0577**

COMES NOW Kansas City Power & Light Company (KCP&L or the Company) and, pursuant to 4 CSR 240-2.080, respectfully provides its Response to the Motion To Terminate Proceeding filed by Praxair, Inc. on January 18, 2005, and in addition requests that the Commission re-open the record in Case No. EO-2004-0577. In support of its Response and Motion, the Company states as follows:

**I. PROCEDURAL HISTORY**

1. On May 6, 2004, KCPL filed its Application To Establish Investigatory Docket And Workshop Process Regarding Kansas City Power & Light Company. In its Application, KCPL requested that the Commission issue an order (a) opening an investigatory docket regarding the future supply and pricing of the electric service provided by KCPL; and (b) authorizing the use of the Commission's workshop process to address certain issues related to the future supply and pricing of electricity for KCPL

and its customers, and any other issues impacting KCPL that may arise from discussion among the interested parties.

2. On May 21, 2004, Staff responded to KCPL's Application and requested that the Commission provide notice of KCPL's request, set an intervention period, and schedule an early prehearing conference. The Staff also advised the Commission to re-designate this matter as an "EW" docket.

3. On May 25, 2004, the Commission issued an Order Directing Notice And Setting Intervention Deadline in Case No. EO-2004-0577.

4. Several interested parties, including the Missouri Department of Natural Resources ("MDNR"), Aquila, Inc. d/b/a Aquila Networks, Aquila Networks-MPS and Aquila Networks – L&P ("Aquila"), The Empire District Electric Company ("Empire"), the City of Kansas City, Missouri ("Kansas City"), Concerned Citizens of Platte County ("Citizens"), PRAXAIR, INC. ("PRAXAIR"), the Missouri Industrial Energy Consumers ("MIEC") and the Missouri Joint Municipal Electric Utility Commission ("MJMEUC") filed applications to intervene in Case No. EO-2004-0577.

5. On June 3, 2004, in Case No. EW-2004-0596, the Commission issued a Notice of New Proceeding, and a separate Order Establishing Case which granted KCPL's Application which was originally filed in Case No. EO-2004-0577, ordering:

1. That the Application to Establish Investigatory Docket and Workshop Process Regarding Kansas City Power & Light Company, filed by Kansas City Power & Light Company on May 6, 2004, is granted.
2. That this informal, investigatory case is established for the purposes described in the Application to Establish Investigatory Docket and Workshop Process Regarding Kansas City Power & Light Company, filed by Kansas City Power & Light Company on May 6, 2004.

6. On June 9, 2004, the Commission issued its Notice of Participants in Case No. EW-2004-0596, in which parties which had filed to intervene in Case No. EO-2004-0577 were made participants in Case No. EW-2004-0596.

7. On July 1, 2004, the Commission issued its Notice Closing Case in Case No. EO-2004-0577 which formally closed that proceeding.

8. A prehearing conference was held in Case No. EW-2004-0596 on June 30, 2004. A series of presentations and workshops were held on June 21, June 30, July 21, July 30, August 10-11, August 19, August 24-26, September 7, September 15, September 29, and October 29, 2004. During this period KCPL conducted numerous informal meetings with a variety of interested groups and individuals to discuss the many issues raised by this proceeding. The workshop was organized into two teams. Team A reviewed Integrated Resource Planning–related issues, including load forecasting, generation planning, demand side management, environmental issues, and distribution and transmission technologies. A subteam within Team A reviewed affordability, efficiency, and conservation programs. Team B reviewed the financial issues associated with KCPL's various plans, including maintaining KCPL's current investment grade rating on its securities. These Teams were led jointly by KCPL and Staff representatives. Additional discussions were also held among the various participants and the Company to discuss the various issues considered in this proceeding.

9. On January 18, 2005, an On-the-Record Status Conference was convened to update the Commission regarding the status of the proceeding. As the status conference was commencing, counsel for the various represented participants,

including the Company, Staff, and Public Counsel, received a copy of a Motion To Terminate Proceeding ("Motion") filed by PRAXAIR, INC. in Case No. EW-2004-0596. During the On-the-Record Status Conference, the Regulatory Law Judge suggested that the Company and other participants should file their responses to the Motion within ten (10) days of the filing of the Motion. This pleading is intended to be the Response of the Company to the Motion.

### **KCPL RESPONSE TO THE MOTION**

1. In its Motion, PRAXAIR, INC. requested that "[t]his proceeding should be terminated as quickly as possible." (Motion, p. 16). PRAXAIR, INC. also stated: "The process should conclude with a public report similar to earlier workshop proceedings." (Motion, p. 10).

2. The Company is not opposed to the termination of the workshop proceeding at an appropriate time. However, it has been the expectation of the parties that a public report drafted by Staff would be filed in the EW- docket, summarizing the activities that have occurred within the context of this workshop proceeding. It is KCPL's understanding from discussions with Staff counsel that Staff is still intending to file such a report in Case No. EW-2004-0596, but it has not completed the report at this time. The Company believes that the EW- docket should remain open to receive this report.

3. The Company also recommends that the Commission re-open Case No. EO-2004-0577 in order to provide an appropriate forum for the consideration and approval of any potential Stipulation and Agreement (assuming agreement among the parties could be reached). The Applications to Intervene that have previously been filed

in Case No. EO-2004-0577 should be granted by the Commission. Additional parties could also be given the opportunity to intervene in Case No. EO-2004-0577.

4. The Company (and perhaps other parties) would expect to provide testimony to support any Stipulation and Agreement that might be reached in the context of Case No. EO-2004-0577. The Company would also expect to answer any questions of the Commission regarding any Stipulation and Agreement in a hearing or on-the-record presentation in Case No. EO-2004-0577. If a Non-Unanimous Stipulation and Agreement were filed in Case No. EO-2004-0577, then the Commission could utilize the provisions of 4 CSR 240-2.115 and provide for a hearing for any issues that needed to be resolved by the Commission.

5. In order to protect the confidentiality of the materials that would be filed to support of any Stipulation and Agreement, the Company would also request that the Commission's standard protective order be issued in Case No. EO-2004-0577.

**WHEREFORE**, for the reasons stated above, Kansas City Power & Light Company respectfully requests that the Commission accept this Response, re-open the record in Case No. EO-2004-0577, grant the Applications to Intervene in Case No. EO-2004-0577, and issue the Commission's standard protective order in Case No. EO-2004-0577, as more fully discussed herein.

Respectfully submitted,

/s/ James M. Fischer

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### **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 28<sup>th</sup> day of January, 2005, to counsel on the attached service list.

/s / James M. Fischer

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