

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

In the Matter of the Application of Kansas)	
City Power & Light Company Regarding)	Case No. EO-2010-0353
The Sale of Assets and Property Rights)	
Located Near Spearville, Kansas)	

**RESPONSE TO ORDER REGARDING APPLICATION, RECOMMENDATION,
AND MOTION TO MODIFY PROCEDURAL SCHEDULE**

COME NOW the Office of the Public Counsel and for its Response to Order Regarding Application and Recommendation and Motion to Modify Procedural Schedule respectfully state as follows:

1. In its Order Regarding Application issued on June 16, 2010, the Commission ordered its Staff and Public Counsel to file, no later than July 13, recommendations concerning KCPL's Application. This response and recommendation is filed in compliance with that order.

2. Public Counsel expected KCPL to do its best to explain and justify its decision in its Application in this case. Public Counsel had hoped that KCPL had done analysis to support its decision, and Public Counsel would simply have to examine that analysis to see whether the decision made sense. Unfortunately, that does not appear to be the case. It appears that the decision was made in a very off-the-cuff manner, and much of the analysis was created after the decision was made – and even the after-the-fact analysis is cursory and unconvincing. Thus the lack of support in the Application is not because KCPL is holding back, but because KCPL just does not have much support for its decision.

3. At this time, Public Counsel is unable to determine whether the sale would be detrimental. Public Counsel has submitted and continues to submit data requests, some of which have required follow-up DRs.¹ KCPL has provided a significant volume of material, but little in the way of compelling analysis. It appears from the information received to date that the decision to sell the wind turbines was based on a gut reaction to avoid additional capital expenditures while Iatan 2's estimated completion date kept being extended and the project's capital expenditures were ballooning uncontrollably. It may be that KCPL's gut reaction was the right reaction, but until proper analysis is done, it is impossible to say. KCPL has failed to explain in a straightforward way what analysis led it to choose this path. Apart from some vaguely identified fears about its credit metrics, KCPL has failed to offer any reasons why ratepayers will not be detrimentally affected by the proposed transactions.

4. In addition to the drivers caused by the lengthy delays and massive cost overruns at Iatan 2,² it appears that the other driver that KCPL believes is forcing it into selling the turbines and land rights is the commitment to the Sierra Club to install another

¹ The response to one of these follow-up DRs, DR Number 2018, states that it contains a number of files "that were inadvertently omitted from the response to OPC DR No. 2005." Another, received mid-afternoon on the date of this filing, contained information that should have been provided in response to an earlier DR (DR Number 2003). Yet another, also received mid-afternoon on the date of this filing, refused to provide the requested information but stated that it would "be made available for review at the Company's offices."

² The impact of these delays on KCPL's credit metrics is magnified by the fact that the delays have caused KCPL to wait much longer than planned to file its currently pending rate case.

100MW of wind by the end of 2010.³ Ratepayers appear to be bearing the harm because of KCPL's agreement with the Sierra Club and because of KCPL's inability to complete Iatan 2 on time and on budget. The whole wind turbine transaction and the drivers behind it are far more complicated than a simple sale of some turbines not yet producing electricity. The Commission was right to require KCPL to seek approval of the transaction, and the Commission should grant approval if and only if KCPL is able to demonstrate that there will be no detriment from the transaction as a whole.

5. KCPL **only** analyzed options that would result in 100 MW of wind capacity by the end of 2010, but there is no explicit acknowledgment of that criteria or justification for it. KCPL has not done (or has not provided) any analysis that compares its chosen course of action to: 1) continuing to hold the 32 turbines in storage; 2) putting the 32 turbines into service itself in 2010 or 2011 at the Spearville property (without additional turbines); 3) selling the turbines (without entering into a PPA); 4) selling the turbines and property rights (without entering into a PPA); 5) selling the turbines and entering into a PPA for only the 48 MW of wind from those turbines; or 6) any number of other possibilities.

³ In its March 19, 2007 Collaboration Agreement with the Sierra Club and Concerned Citizens of Platte County, KCPL committed "to add 100 additional megawatts (MW) capacity of wind-generated electric power by December 31, 2010...." (Collaboration Agreement, Section III. a). This commitment is separate and apart from the Regulatory Plan approved by the Commission in Case No. EO-2005-0329. The Collaboration Agreement provides that: "The parties agree that the commitments contained in this Agreement are not intended to change or modify the terms of the Experimental Regulatory Plan originally approved by the MPSC in Case No. EO-2005-0329...." (Collaboration Agreement, Section V).

6. Public Counsel recommends that the Commission order KCPL, in response to this filing and the Staff filing, to file testimony that describes: 1) the timeline of events relevant to the sale in question; 2) all analyses done to arrive at the decision (including when they were done); 3) what options were analyzed; 4) why those options were chosen (including why only 2010 100 MW wind options were chosen); 5) what the various analyses showed; and 6) how the options and the results of the analyses were presented to decision-makers at GPE and KCPL and 7) identification of the decision-makers at GPE and KCPL who made decisions at each point in the timeline when important decisions were made. Public Counsel also recommends that the Commission order KCPL to perform the analyses listed in paragraph 5 of this pleading, any other analyses suggested by the Staff, and any additional analyses the Commission believes will be helpful. Only after the parties and the Commission can see the big picture can the parties and the Commission determine whether the transaction is detrimental to the public interest.

7. Once KCPL files its response and explains the entire transaction, its drivers, and its ramifications, the Commission should allow Staff and Public Counsel a final filing in which they recommend either approval of the transaction or proceeding to an evidentiary hearing.

WHEREFORE, Public Counsel respectfully submits this response and recommendation, and requests modification of the schedule to allow the additional filings discussed in paragraphs 6 and 7.

Respectfully submitted,

/s/ Lewis R. Mills, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 13th day of July 2010:

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