

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

In the Matter of the Joint Application of)	
Great Plains Energy Incorporated, Kansas City Power)	
& Light Company, and Aquila, Inc. for Approval of)	Case No. EM-2007-0374
the Merger of Aquila, Inc. with a Subsidiary of Great)	
Plains Energy Incorporated and for Other Related)	
Relief)	

**GREAT PLAINS ENERGY’S AND KCPL’S MOTION TO LIMIT SCOPE OF
THE PROCEEDING TO EVIDENCE RELATING TO WHETHER THE
PROPOSED ACQUISITION OF AQUILA BY GREAT PLAINS ENERGY INC.
IS NOT DETRIMENTAL TO THE PUBLIC INTEREST**

Great Plains Energy Incorporated (‘Great Plains Energy’), Kansas City Power & Light Company (‘KCPL’), (collectively ‘Applicants’) move to limit the scope of this proceeding to evidence relating to whether the proposed acquisition of Aquila is not detrimental to the public interest, which is the standard that the Commission is required to apply by law. See 4 CSR 240-3.115(1)(D).

The Staff of the Commission is intent upon expanding the scope of this case to include an inquiry into the Great Plains Energy Code of Ethical Business Conduct and its gift and gratuity policy, as well as an extensive inquiry into to KCPL’s Comprehensive Energy Plan (‘CEP’) set forth in the Stipulation and Agreement approved by the Commission in Case No. EO-2005-0329, including the current reforecast of cost and schedule issues related to the Iatan Unit 1 and Unit 2 construction projects. See Issues X and XI, Staff’s Second List of Issues and Order of Opening Statements, Witnesses and Cross-Examination at 10-11 (‘Staff’s Second List of Issues’).

Staff has indicated that it expects to call 15 witnesses on the Iatan construction issues, and 15 witnesses on the anonymous allegations issue. Although all of these witnesses have been

deposed and Staff could propose to designate portions of those depositions for submission into the record, Staff has instead chosen to call a multitude of witnesses on issues that are at best peripheral and, for the most part, irrelevant to the question of whether the merger proposed in this proceeding is not detrimental to the public interest.

To be clear, the Applicants do not object to evidence related to: (1) The inter-relationship between the Iatan projects and Great Plains Energy's acquisition of Aquila; (2) KCPL's procurement function and asserted merger savings estimates; and (3) Credit agency debt rating information and debt ratings. A number of the Applicants' witnesses who have submitted pre-filed testimony can address these issues, including Great Plains Energy's Chief Financial Officer Terry Bassham; Great Plains Energy's Vice-President of Investor Relations and Treasurer Michael Cline; and KCPL's Vice President of Administrative Services Lora Cheatum. Additionally, the Applicants will produce William H. Downey, President and Chief Executive Officer of KCPL, to provide testimony on the relationship of the CEP projects (including the status of the Iatan Unit 1 environmental retrofit and Iatan Unit 2 construction) to the acquisition of Aquila. He will also be able to advise the Commission on the status of the reforecast that is underway regarding construction costs and schedules at the Iatan Generating Station.

However, the wide range of inquiries conducted during the depositions of 11 Great Plains Energy/KCPL witnesses and 5 Aquila witnesses during the past three weeks indicates that Staff is pursuing the "fishing expedition" and a "full re-evaluation of the CEP in the context of this case," contrary to the Commission's directive of March 20. See Order Denying Motion to Quash Deposition Subpoenas at 3-4. Issues X and XI of Staff's Second List of Issues demonstrate that Staff plans to continue this trek into areas that are not relevant to whether the proposed merger is not detrimental to the public interest. The Commission should not require the Applicants to produce for hearing: (1) Michael J. Chesser, Great Plains Energy Chairman of the Board and

Chief Executive Officer; (2) Stephen Easley, KCPL's Senior Vice President of Supply; (3) Brent Davis, KCPL's Iatan Unit 1 Project Director; (4) Terry Foster, KCPL's Director of Project Controls for CEP projects; (5) Steven Jones, KCPL's CEP Procurement Director; (6) John R. Grimwade, KCPL's Senior Director of Strategic Planning and Development.

If Staff feels compelled to introduce evidence from these witnesses, the Commission should require Staff to designate from each witnesses' deposition the pages and lines that it proposes to offer. All other parties will then be able to raise objections or agree that such passages may be admitted.

Staff also proposes to inquire into the regulatory "Additional Amortizations" issue, as well as the possibility of a future regulatory plan for Aquila. See Issue X, Staff's Second List of Issues. As Great Plains Energy's Chief Financial Officer Terry Bassham has testified, the amortizations issue has been withdrawn from the Joint Applicants' request. See Bassham Add'l Supp. Direct at 4. An Aquila regulatory plan is a potential topic for future discussion after the closing of the merger, but it is not an element of the Joint Applicants' current request. Id. Since none of these issues is before the Commission, there is no need for them to be discussed at the hearing.

Finally, the Staff has launched its own investigation into the codes of corporate conduct of Great Plains Energy and Aquila, with particular emphasis on the companies' policies regarding gifts and gratuities. These policies and Staff's inquiries have no bearing on whether Great Plains Energy's acquisition of Aquila is not detrimental to the public interest. Such questions, prompted only by the anonymous letters filed at the Commission that contain no specific accusations of misconduct or bribery against any person or entity, have brought Staff close to second-guessing management in its operation of these companies. The Commission, of course, is not permitted "to dictate the manner in which the company shall conduct its business."

State ex rel. Kansas City Transit, Inc. v. PSC, 406 S.W.2d 5, 11 (Mo. 1966); State ex rel. PSC v. Bonacker, 906 S.W.2d 896, 899 (Mo. App. S.D. 1995).

Further examples of the Staff's attempt to make the anonymous complaints the focus of the merger hearing can be found in Issues XI(b) and (c) of Staff's Second List of Issues. The Commission has recently declined to consider the anonymous complaints in a 2008 KCPL financing proceeding. In response to Praxair Inc.'s request that the Commission consider the contents of an anonymous letter (one of the letters filed in this proceeding by the Commission as an *ex parte* contact) the Commission determined that "[a]n anonymous letter not supported by a sworn witness who is subjected to cross-examination constitutes mere hearsay and should not be considered by the Commission in reaching a decision in a contested case." (Application of Kansas City Power & Light Company for Authority to Issue Debt Securities, "Order Approving Financing", Case No. EF-2008-0214, (February 14, 2008) at p. 3.) The Commission should make the same ruling in this case with regard to the anonymous letters.

Continuing these inquiries at the hearing would sidetrack the Commission from the questions that must be properly explored and the weighing of benefits and detriments relevant to whether the acquisition should be approved.

Therefore, the Applicants request that the Commission order the following:

1. That with the exception of Mr. Downey, Applicants need not produce at the hearing the following witnesses:

Great Plains Energy/KCPL witnesses Michael J. Chesser, Stephen Easley, Steven Jones, John Grimwade, Brent Davis, and Terry Foster.

2. That if Staff believes the testimony of any such witness should be admitted into evidence, it designate pages and line numbers from the depositions of those witnesses and offer them into evidence so that other parties have an opportunity to raise objections.

3. That the Commission will not hear evidence related to (a) regulatory "Additional Amortizations" or (b) future Aquila regulatory plans, neither of which is the subject of a request from the Applicants.

4. That the Commission will not hear evidence related to the codes of corporate conduct of Great Plains Energy or its policies on gifts and gratuities.

5. That the Commission will not hear evidence related to KCPL's Comprehensive Energy Plan except as it relates to the proposed acquisition of Aquila and Great Plains Energy's ability to carry out the transaction.

Wherefore, the Applicants ask that the Commission issue its order consistent with the foregoing requests.

Respectfully submitted,

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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, emailed or mailed, postage prepaid, this 17th day of April, 2008, to all counsel of record.

/s/ Karl Zobrist

Karl Zobrist