

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

Application of Kansas City Power & Light)	
Company for the Opening Of A Proceeding)	<u>Case No. EO-2008-0224</u>
To File Status Report On Wind Investments)	

RESPONSE TO ORDER DIRECTING NOTICE AND ORDER DIRECTING FILING

COMES NOW the Office of the Public Counsel and for its Response to Order Directing Notice and Order Directing Filing states as follows:

1. On January 4, 2008, the Kansas City Power and Light Company (KCPL) filed an application that initiated this case. KCPL stated that it was making the application pursuant to Section 4 of the Stipulation and Agreement approved by the Commission in Case No. EO-2005-0329. This Stipulation and Agreement is commonly referred to as the KCPL Regulatory Plan. Part of the Regulatory Plan is an agreed-upon set of infrastructure investments and system improvements referred to as the Comprehensive Energy Plan (CEP). One of the components of the CEP was to have been a series of investments in wind energy, the first of which was completed according to the CEP. The second, which is the subject of this case, was unilaterally canceled by KCPL.

2. On January 14, 2008, the Commission issued an order in which it directed that the Commission Staff file a recommendation or a status report on February 19, 2008, and also required all other parties to respond to KCPL's application on the same date. Public Counsel files this response pursuant to that order.

3. As KCPL notes in its application in this case, the Regulatory Plan requires KCPL to install additional wind generation if an evaluation supports such an installation. The Regulatory Plan states: "An additional 100MW of new wind generation facilities will be

installed in 2008 if a detailed evaluation (made with input from interested Signatory Parties) supports such an action to proceed with its construction.” (Regulatory Plan, Section III.B.4, page 45). As the Missouri Department of Natural Resources pointed out in a pleading filed on February 19, 2008, KCPL's detailed evaluation supported proceeding with the second wind energy installation as recently as November 2007. KCPL's cancellation of the second wind investment appears to be caused by market conditions related to one particular financing vehicle (so-called hybrid debt securities) rather than the desirability of the wind project itself.

4. The Regulatory Plan allows for changes to the CEP only in extraordinary circumstances, and even then requires KCPL to take specific steps to inform Regulatory Plan signatories of the reasons for the changes. It is not clear what circumstances KCPL is asserting give rise to its decision to cancel the second wind investment, but it may be Section III.B.1.o(x) (Regulatory Plan, page 25). This section requires KCPL to monitor factors and circumstances that will influence the components of the CEP, and subsection (x) refers to “a significant change in capital market conditions.” However, the so-called hybrid debt securities that KCPL recently discussed issuing were never part of the anticipated financings under the Regulatory Plan (Appendix B), so KCPL's brief and unsuccessful flirtation with these instruments essentially returned it to the *status quo ante* that existed at the time of the execution of the Regulatory Plan.

5. Moreover, KCPL – if it intended to assert a change in circumstance that impacted the reasonableness and adequacy of continuing to include the second wind investment in the resource plan – was required to notify in writing all Signatory Parties to the Regulatory Plan of the change in circumstance (Regulatory Plan, Section III.B.1.o, page 26). As a part of this notification, KCPL was required to:

- (1) explain the reason(s) (*e.g.*, changed circumstances) for the proposed change in the Resource Plan; (2) specify the new proposed Resource Plan; (3) provide a

description of the alternatives it evaluated and the process that it went through in choosing the new proposed Resource Plan; and (4) provide detailed workpapers that support the evaluation and the process whereby a new proposed Resource Plan was chosen.

KCPL was required to provide the notification within 45 days of the date on which it determined that circumstances required it to drop the second wind investment from its Resource Plan. It does not appear that KCPL complied with the notification requirements.

6. Unless and until KCPL provides a detailed explanation of (at least) alternatives to the issuance of so-called hybrid securities and the “alternatives it evaluated and the process it went through in choosing the new Resource Plan,” Public Counsel will be unable to support KCPL's unilateral decision to cancel the second wind investment.

WHEREFORE, Public Counsel respectfully submits its Response to Order Directing Notice and Order Directing Filing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 19th day of February 2008.

/s/ Lewis R. Mills, Jr.

By: _____