

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of a Proposed Experimental)	
Regulatory Plan of)	Case No. EO-2005-0329
Kansas City Power and Light Company)	

**SIERRA CLUB AND CONCERNED CITIZENS OF
PLATTE COUNTY’S RESPONSE TO STAFF’S, PUBLIC COUNSEL’S,
MISSOURI DEPARTMENT OF NATURAL RESOURCES’
AND PRAXAIR’S PROPOSED AMENDMENT OF THE KCPL
EXPERIMENTAL REGULATORY PLAN**

Come now the Sierra Club (“SC”) and Concerned Citizens of Platte County (“CCPC”) and file their response to the Proposed Amendment of the KCPL Experimental Regulatory Plan (“Proposed Amendment”) filed on August 12, 2005, by the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“OPC”), the Missouri Department of Natural Resources (“DNR”), and Praxair, Inc. (“Praxair”).

1. The Staff’s request made on August 12, 2005, that the Public Service Commission (“Commission”) approve the amendments requested in the “Appendix A” attached to the Proposed Amendment proves SC and CCPC’s point made in paragraph numbered 21 of SC and CCPC’s Motion for Rehearing filed on August 5, 2005, that the Order of the Commission is unlawful, unjust and unreasonable in that the Stipulation approved on July 28, 2005, is not the final version of the Stipulation and SC and CCPC incorporate that argument and motion for rehearing here.

2. The Staff's request, made fifteen days after the Stipulation was approved by the Commission, that fourteen additional paragraphs be added violates SC and CCPC's rights to due process in that there have been no hearings on these provisions, and no evidence offered in support of them.

3. The Staff's clarifications to the Appendix filed August 18 have assisted in clarifying the Appendix. However, in its Response to the Staff's pleading, KCPL has clearly labeled the fourteen proposed amendments and SC and CCPC make these additional objections using the alphabetical designations employed by KCPL.

4. The Order of the Commission which adopted the Stipulation is unlawful, unjust and unreasonable in that Amendment "A" results from workshop processes that could not be reviewed by the Commission. Furthermore, there was no mention in the Missouri Public Service Commission hearings of the Federal Energy Commission Order issued February 21, 2003, in Docket No. ES02-51-000, and its relation to debt securities issued by KCPL. The fact that this amendment is being offered at this late date after the hearing supports SC and CCPC's argument made in paragraph 25 of their Motion for Rehearing that there is a great deal of risk involved in this Stipulation that is not in the public interest.

5. The Order of the Commission adopting the Stipulation is unlawful, unjust and unreasonable, in that KCPL and the Staff have not shown how Amendments C and D, if incorporated into the Stipulation, do not violate § 393.135, RSMo. These provisions are comparable to the CIAC which is apparently being allowed in Kansas but which would be blatantly illegal in Missouri.

6. The Order of the Commission is unlawful, unjust and unreasonable in that Amendment E is vague and unenforceable.

7. The Order of the Commission is unlawful, unjust and unreasonable in that amendment F appears to lack the word “signatory” before the word “parties,” making this amendment vague and unenforceable.

8. The Order of the Commission is unlawful, unjust and unreasonable in that Amendment H deprives the PSC of needed flexibility to modify the regulatory plan over time.

9. The Order of the Commission is unlawful, unjust and unreasonable in that Amendment I sets forth a concept for which there has been no public hearing, no information given to the public, and no mention anywhere before in the Stipulation. There was no testimony given under oath about the effect of Request For Proposals (“RFPs”) on the increased rates the consumers will face nor on the strength nor longevity of the demand-side management programs in connection with RFPs.

10. The Order of the Commission is unlawful, unjust and unreasonable in that Amendment J sets forth a concept nowhere before mentioned in the Missouri Stipulation, testimony nor evidence. There has been no mention before August 12 of the idea of a railroad bridge being built for coal deliveries. The public received no evidence on this during the Missouri hearings. The costs, size, aesthetics, nuisance factors and environmental effects of this bridge have nowhere been discussed. Although paragraph J states that “the bridge will not be considered a part of the Resource Plan,” there will be costs associated with the bridge and costs ultimately affect the ratepayer. The

Commission should have considered the cumulative effect of these costs in connection with the other increased costs discussed in the Stipulation.

11. The Order of the Commission is unlawful, unjust and unreasonable in that Amendment K sets forth a concept nowhere before mentioned in the Stipulation, testimony nor evidence. The first time anyone said that KCPL will issue a RFP for a purchase power agreement, rather than a second wind plant, was on August 12, well after the public and evidentiary hearings. One of the reasons the DNR supposedly went along with the Stipulation was that KCPL was committed to building two wind-power plants. Half of that commitment has suddenly evaporated.

12. The Order of the Commission is unlawful, unjust and unreasonable in that Amendment L sets forth a concept nowhere before mentioned in the Stipulation, testimony nor evidence. Amendment L, first filed on August 12, states for the first time that not one of the meager efficiency programs will be implemented “until such Commission approval has been obtained through the tariff filing process.” As SC and CCPC’s expert witness pointed out at the evidentiary hearing, the efficiency programs are already doomed to cause erosion of revenue because, among other reasons, KCPL and the signatory parties failed to ask the PSC to reward KCPL financially for implementing them. At the tariff hearings, large corporations will impress upon the PSC the fact that the programs will cause revenue erosion and the programs will never be implemented.

13. The Order is unlawful, unjust and unreasonable in that Amendment M sets forth for the first time the concept that KCPL will be at risk for recovery of stranded costs related to the acquisition of new generation if generation assets are deregulated in the in

the future. There should have been testimony given at the evidentiary hearing about the effect of these risks on the ratepayer.

14. The Order is unlawful, unjust and unreasonable in that Amendment N sets forth a concept for which there was no testimony given and the effect of this risk on the ratepayer was not disclosed.

15. KCPL's attempt at saying that all of the parties "clearly were notified of the various provisions of the Kansas Stipulation" and that therefore, there is no need for additional hearings, does not meet the requirements of due process. These provisions were not testified to in Missouri; this Commission did not hear evidence on them; and the residents of the state of Missouri did not hear evidence on them. The Missouri Public Service Commission approved the Stipulation filed in Missouri, not the Stipulation filed in Kansas.

WHEREFORE, SC and CCPC request the Commission to set an evidentiary hearing on the fourteen new amendments proposed after the Stipulation was adopted in addition to granting a rehearing on the Stipulation that was filed before August 12.

/s/Kathleen G. Henry

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were sent by email on this 19th day of August, 2005, to the parties listed currently on the Service List for this case according to the Public Service Commission web site's service list.

/s/Kathleen G. Henry
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