

**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,)	<u>Case No. EM-2007-0374</u>
Inc. for Approval of the Merger of Aquila,)	
Inc. with a Subsidiary of Great Plains Energy)	
Incorporated and for Other Related Relief)	

**SECOND MOTION TO MAKE CERTAIN DOCUMENTS PUBLIC,
REQUEST FOR WAIVER,
AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Office of the Public Counsel and for its Second Motion to Make Certain Documents Public, Request for Waiver, and Motion for Expedited Treatment states as follows:

1. On November 11, 2007, the Staff of the Commission filed notices of deposition concerning depositions of two Great Plains, Inc. or Kansas City Power and Light Company officers: Michael J. Chesser and William H. Downey. The notices also included requests for production of documents.

2. The two depositions were held as noticed on November 28, and a number of documents were produced. A total of 15 documents were made exhibits in the two depositions. Many of these were designated “Highly Confidential” by KCPL/GPE.¹

3. The Commission’s rules² prescribe what information may be designated as HC:

Highly confidential information is information concerning:

¹ Exhibits 26, 27, 30, 34, 35, 36, and 37 were designated HC. This motion deals only with Exhibits 26, 27, and 30 which are attached hereto as a “Highly Confidential” attachment.

² 4 CSR 240-2.135(1)(B)

1. Material or documents that contain information relating directly to specific customers;
2. Employee-sensitive personnel information;
3. Marketing analysis or other market-specific information relating to services offered in competition with others;
4. Marketing analysis or other market-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;
5. Reports, work papers, or other documentation related to work produced by internal or external auditors or consultants;
6. Strategies employed, to be employed, or under consideration in contract negotiations; and
7. Information relating to the security of a company's facilities.

The information that was made exhibits to the depositions and that Public Counsel seeks to have designated as public information does not fall within any of these categories. It consists of materials presented to GPE's Board of Directors, minutes of a meeting of those directors and the cover letter Mr. Chesser wrote to accompany GPE's final, non-binding indication of interest in acquiring Aquila. This information may have been sensitive at the time it was originally created because it has to do with the negotiations about Great Plains Energy acquiring Aquila, but it is no longer in need of protection because the final terms of the offer and the attendant ratemaking requests are now public.

4. Furthermore, the public interest in having this information in the public record and available to the public far outweighs any desire on KCPL/GPE's part to keep it secret. There are several very unusual features to the instant merger application, and the public has a right to know how those features were developed and presented to regulators.

5. In addition, KCPL/GPE have failed to comply with 4 CSR 240-2.135(2)(B) which requires that "The party that designates information as proprietary or highly confidential must inform, in writing, the party seeking discovery of the reason for the designation at the same time it responds to the discovery request." No written explanation was provided at the depositions;

indeed, no explanation – written or oral – was given as to why this information should be hidden from the public.

6. 4 CSR 240-2.135(2)(B) also provides any party wishing to challenge the HC designation must use the informal discovery dispute resolution procedures set forth at 4 CSR 240-2.090(8), which requires two conferences before a discovery motion is filed. Given the fact that KCPL/GPE have not even attempted to comply with their duty under the first part of 4 CSR 240-2.135(2)(B) to justify keeping the information secret, it would be patently unfair to require a party challenging the designation to comply with the second part. Accordingly, Public Counsel requests waiver of the required negotiations and asks leave to file this motion.

7. Public Counsel requests that the Commission rule on this motion expeditiously. Pursuant to 4 CSR 240-2.080(16), Public Counsel states that: (A) it desires the Commission to act on this request at the beginning of the hearing on December 3, 2007³; (B) the harm that will be avoided will be keeping non-sensitive information secret from the public any longer and the benefit will be keeping the Commission's processes public to the greatest extent possible; and (C) Public Counsel received these documents for the first time at approximately 9:15 a.m. on Saturday, December 1, 2007, and this pleading was filed as soon as possible thereafter.

WHEREFORE, Public Counsel respectfully requests that the Commission: (1) grant this motion expeditiously; (2) waive the requirement that Public Counsel comply with 4 CSR 240-2.090(8); and (3) open up to the public view exhibits 26, 27 and 30 to the depositions of Mr. Chesser and Mr. Downey.

³ Although Mr. Chesser and Mr. Downey are scheduled to appear on December 5, 2007, it is anticipated that opening statements and questions to earlier-scheduled witnesses may involve the documents designated as Highly Confidential. It is in the public interest that those questions and the documents on which they are based be open to the public.

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 2nd day of December 2007.

/s/ Lewis R. Mills, Jr.

By: _____