

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

In the Matter of a Proposed Experimental)	
Regulatory Plan of Kansas City Power &)	EO-2005-0329
Light Company)	

**RESPONSE AND PREHEARING BRIEF OF INTERVENOR US DEPARTMENT
OF ENERGY TO COMMISSION’S ORDER OF JUNE 6, 2005**

COMES NOW, Intervenor United States Department of Energy (“DOE” or “USDOE”) and files its RESPONSE AND PREHEARING BRIEF OF INTERVENOR US DEPARTMENT OF ENERGY TO COMMISSION’s ORDER OF JUNE 6, 2005, and respectfully states:

On June 6, 2005 the Commission issued its Order in this case requiring the parties in this case to file prehearing briefs no later than June 15, 2005 “...and in those briefs, each party shall state what it believes each of its witnesses will prove at hearing, and what it believes it will ultimately prove at the end of its case.”¹

First, DOE does not intend to call any witnesses on its behalf. Instead DOE intends to conduct cross examination of KCPL witness Chris Giles and may call Mr. Robert Schallenberg of the Staff who was involved throughout the process

¹ We do not intend to infer in the instant filing that there are not also legal questions that need to be resolved by the Commission in this case. See List of Issues filed by the Staff herein on May 31, 2005 and the various parties Statement of Positions filed herein on June 2, 2005 as well as the Prehearing Briefs filed by the parties in this case pursuant to the Commission’s Order.

leading up to the Stipulation and Agreement². Such cross-examination will relate to the Stipulation and Agreement filed herein by the Signatory Parties.

Finally, the Commission has asked the parties to tell it what they intend to prove. We submit the burden of proof in this case is squarely on KCPL and the other Signatory Parties to prove by competent and substantial evidence based upon the whole record that the Stipulation and Agreement is in the public interest and is allowed by law. We submit that this cannot be determined until after the record in this case is concluded which would include, if allowed by the Commission post-hearing Briefs..

WHEREFORE, Intervenor DOE respectfully submits this RESPONSE AND PREHEARING BRIEF OF INTERVENOR US DEPARTMENT OF ENERGY TO COMMISSION'S ORDER OF JUNE 6, 2005.

Respectfully submitted this 15th day of June, 2005.

/S/ Paul W. Phillips
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² If DOE calls a Staff member to testify relating to the Stipulation and Agreement it may do so pursuant to a Subpoena or Subpoena Duces Tecum. Although the time for filing of such a Subpoena has passed in this Case (4 CSR 240-2.100), Staff has indicated it will not object to the request. Staff has said in its "List of Issues, etc" at page 4, that it intends to make Staff members

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means or by U.S. mail, postage prepaid, addressed to the legal representatives of all parties that have been identified as parties and petitioning intervenors through the Commission's Electronic Filing and Information System as of this date.

/S/ Paul W. Phillips

Paul W. Phillips, Esq.

Attorney for Intervenor DOE

Dated: June 15, 2005

available at the hearing to respond to questions from the Commission or the RLJ therefore Mr. Schallenberg will already be present.