

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

Application of Kansas City Power & Light)	
Company for the Opening of a Proceeding to)	Case No. EO-2008-0224
File Status Report on Wind Investment)	

STAFF RECOMMENDATION/STATUS REPORT AND MOTION TO LATE FILE

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), through the Office of General Counsel, submits this Staff recommendation/status report in the instant case and requests leave of the Missouri Public Service Commission (“Commission”) to late-file this Staff recommendation/status report. In support thereof, the Staff respectfully states as follows:

1. On January 4, 2008, Kansas City Power & Light Company (“KCPL” or “Company”) filed with the Commission an Application for the opening of a proceeding in order that the Commission receive the Company’s status report on the matter of the adding of 100 MW of wind generation in 2008. KCPL attached to its pleading what it characterized as its analysis of adding 100 MW of wind generation in 2008, which is Attachment No. 2HC to its Application. KCPL’s filing stems from the Commission-approved Stipulation And Agreement as amended (“Stipulation And Agreement”) in KCPL’s Experimental Regulatory Plan proceeding, Case No. EO-2005-0329. In relevant part, that Stipulation And Agreement provides: “An additional 100 MW 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.”

2. In an order dated January 14, 2008, the Commission, among other things, set a deadline of February 4, 2008 for intervention applications and directed the Staff to file, no later than February 19, 2008 either a recommendation concerning KCPL’s filing or a status report

stating the earliest date on which the Staff intends to file said recommendation. The Commission also directed any other party wishing to respond to KCPL's status report to file its response no later than February 19, 2008.

3. On February 15, 2009, the Commission granted the timely filed applications to intervene of the Missouri Department of Natural Resources ("MDNR") and Praxair, Inc. ("Praxair").

4. On February 19, 2008, MDNR filed its Response To Status Report On Wind Investments, wherein, among other things, MDNR requests that (a) KCPL submit an analysis of its evaluation of the factors that resulted in KCPL's decision not to proceed with a purchase power agreement after changes in the financial market affected KCPL's plans to issue hybrid debt securities for a construction ownership option; (b) KCPL give greater consideration to issues other than least-cost considerations as provided for in Chapter 22 of the Commission's Electric Utility Resource Planning rule, 4 CSR 240-22.010(2)(C); and (c) KCPL submit an analysis that identifies Missouri regulatory and policy issues and decision-making variables, other than the issues identified in Attachment 2, that were factors in KCPL's site selection, including recommendations and possible impact of specific actions or policies Missouri could adopt that could increase the attractiveness of siting wind projects in Missouri.

5. On February 19, 2008, Praxair filed its Comments wherein it asserts that KCPL has not complied with section III.B.1.o of the Stipulation And Agreement in Case No. EO-2005-0329 and suggests that the only appropriate action for the Commission to take at this point is to direct KCPL to comply with the terms of the Case No. EO-2005-0329 Stipulation And Agreement.

6. On February 19, 2008, Public Counsel filed its Response To Order Directing Notice And Order Directing Filing, asserting that KCPL had not complied with section III.B.1.o of the Stipulation And Agreement in Case No. EO-2005-0329, and stating that at least and until KCPL provides a detailed explanation (at least) alternatives to the issuances 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.

7. On February 21, 2008, the Sierra Club and Concerned Citizens of Platte County (“Sierra Club/Concerned Citizens”) filed a Motion For Late Intervention. The Staff has no objection to the Motion For Late Intervention of Sierra Club/Concerned Citizens. Sierra Club/Concerned Citizens state that “Movants’ reason for intervening is to protect their interests in their settlement with KCPL and particularly in the portions of that settlement related to the wind investments in question.” Sierra Club/Concerned Citizens of course are not among the Signatory Parties to the Stipulation And Agreement in Case No. EO-2005-0329 and neither the Commission nor the Staff is a party to the settlement that Sierra Club/Concerned Citizens has with KCPL (March 19, 2007 “Collaboration Agreement”).

8. KCPL ultimately advised the Staff and certain other interested parties to its Case No. EO-2005-0329 Stipulation And Agreement that it chose not to add 100 MW of wind generation in 2008 because of financial market conditions. KCPL relates in its Application, at page 3, meetings/teleconferences with Staff, Public Counsel, and/or MDNR and other interested entities, and its reversal of its decision to add 100 MW of wind generation in 2008:

6. . . . KCPL held meetings/teleconferences on August 9, 2007, and September 28, 2007 with Staff, Public Counsel, and/or MNDR and other interested parties to discuss KCPL’s analysis and solicit their input on the

advisability of proceeding with an additional 100 MW of wind investment in 2008.

7. However, in the fall of 2007, the conditions of the financial markets changed, due principally to concerns over the sub-prime mortgages and related problems. As explained in the True-Up Rebuttal Testimony of Michael W. Cline in KCPL's 2007 Rate Case (Ex No. 37HC, Case No. ER-2007-0291), KCPL had planned to issue a substantial amount of hybrid debt securities in late 2007. However, due to the changed financial market conditions, KCPL was unable to issue the hybrid debt securities, as planned.

8. After further analysis of its alternatives, KCPL concluded that it would not be prudent to proceed with the additional 100 MW of wind generation for completion in 2008. . . .

9. The Rebuttal True-Up Testimony of Michael W. Cline referred to in paragraph 7 above, noting the changed financial market conditions, was filed by KCPL on November 6, 2007. Even though in paragraph 8 above, KCPL refers to further analysis of its alternatives, a casual reading of those paragraphs of KCPL's Application may leave the impression that KCPL decided around the time of Mr. Cline's Rebuttal True-Up Testimony in Case No. ER-2007-0291 not to proceed with the additional 100 MW of wind generation in 2008. In actuality, on November 29, 2007, with the Great Plains Energy Incorporated (GPE)/Aquila, Inc. (Aquila) acquisition hearings starting on December 3, 2007, KCPL advised the Staff and other entities that KCPL's analysis was that the best alternative for KCPL's customers was for it to pursue development of a second 100 MW of wind generation for commercial operation prior to the end of 2008 at the Spearville, Kansas site. On December 14, 2007, with the GPE/Aquila acquisition hearings on hold, KCPL advised the Staff and other entities that it was not in the best interest for KCPL to proceed in 2008 with a second 100 MW of wind generation given the current financial market conditions.

10. Like Public Counsel and Praxair, the Staff believes that there are provisions in the Stipulation And Agreement in Case No. EO-2005-0329 for addressing this matter at this point. In addition to the portion of section III.B.1.o of the Stipulation And Agreement in Case No. EO-2005-0329 which Public Counsel and Praxair refer the Commission to, the Staff would refer the Commission to the last paragraph (page 27 of the Stipulation And Agreement in Case No. EO-2005-0329) that the Staff cites in the quotation which follows:

o. Resource Plan Monitoring

KCPL agrees to actively monitor the major factors and circumstances which influence the need for and economics of all elements of its Resource Plan (the term “Resource Plan” is defined for purposes of this Agreement in Paragraph III.B.1.a.) until the capital investments described in Paragraph III.B.5 [sic] below are completed. Such factors and circumstances would include, but not be limited to:

* * * *

- (x) a significant change in capital market conditions;

* * * *

If KCPL determines that its Resource Plan should be modified because changed factors or circumstances have impacted the reasonableness and adequacy of the resource plan, then it shall notify all Signatory Parties in writing within forty-five (45) days of any such determination. In its notification, KCPL shall: (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 that 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.

* * * *

If any Signatory Party believes that there have been significant changes in factors or circumstances that have not been acknowledged by KCPL, any Signatory Party may notify KCPL and all other Signatory Parties and request a meeting of all Signatory Parties to discuss the specific changes in factors or circumstances that give rise to the concern of the Signatory Party giving such notice. If the interested Signatory Parties cannot resolve the dispute within ninety (90) days of a Signatory Party’s written notification, the matter will be brought to the Commission for its determination. The burden of proof to demonstrate the continued reasonableness and prudence of the new resource plan shall remain with KCPL in any dispute regarding changed factors or circumstances.

11. The Staff has submitted a letter to KCPL requesting that KCPL promptly schedule a meeting of the Signatory Parties to the Stipulation And Agreement in Case No. EO-2005-0329, at a mutually convenient time, to address, among other things, KCPL's decision not to proceed with the additional 100 MW of wind generation in 2008.

12. The Staff recommends that the Commission take no action while the Signatory Parties to the Stipulation And Agreement in Case No. EO-2005-0329 proceed under that document. Sierra Club/Concerned Citizens is free to act under its March 19, 2007 Collaboration Agreement with KCPL. The Staff proposes to submit a status report to the Commission no later than March 12, 2008, and earlier if there is anything of consequence to report. The Staff is well aware that although the Commission approved the Stipulation And Agreement in Case No. EO-2005-0329, the Commission is not a party to the Stipulation And Agreement.

13. Counsel for the Staff apologizes for the delay in filing this Staff recommendation-status report. Other Commission business including various other matters relating to the KCPL Experimental Regulatory Plan and the GPE/Aquila acquisition have been occupying Staff counsel's time. The Staff does not believe that any party has been prejudiced by the delay.

14. Finally the Staff notes the proliferation of matters relating to the KCPL Experimental Regulatory Plan. Although for continuity purposes proceeding in Case No. EO-2005-0329 might seem to make sense, the sheer number of separate matters arising from the KCPL Experimental Regulatory Plan and the fact that they may entail judicial review would seem to require proceeding in separate cases. The Commission is likely to have its own view of this matter.

WHEREFORE, the Staff submits its recommendation/status report that the Commission take no further action at this time while the interested Signatory Parties to the Stipulation And

Agreement in Case No. EO-2005-0329 seek to resolve this matter under the terms of that document, with the Staff submitting a further status report no later than March 12, 2008, and the Staff requests leave to late-file the instant recommendation/status report.

Respectfully Submitted,

/s/ **Steven Dottheim**

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 22nd day of February 2008.

/s/ **Steven Dottheim**