

**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)	

**RESPONSE TO MOTION FOR PROTECTIVE ORDER OF GREAT
PLAINS ENERGY INC. AND KANSAS CITY POWER AND LIGHT CO.
TO QUASH DEPOSITION SUBPOENAS**

COMES NOW the Office of the Public Counsel and for its Response to Motion for Protective Order of Great Plains Energy Inc. and Kansas City Power and Light Co. to Quash Deposition Subpoenas (“Motion to Quash”) states as follows:

1. The Commission should be very wary of KCPL/GPE’s efforts to foreclose inquiry into the status of the Comprehensive Energy Plan (“CEP”) projects until after the Commission decides the merger case. Given that the Commission Staff and other parties are willing to conduct discovery in this case without any delay in the schedule proposed by Joint Applicants, why is KCPL/GPE so anxious to put off discovery?

2. In its Motion to Quash, KCPL/GPE concede at paragraph 17 that credit and debt rating information are relevant to this proceeding. But in the same paragraph, KCPL/GPE unilaterally declare that “Mr. Bassham and Mr. Cline are the appropriate witnesses to depose.” It is somewhat unusual for one party to a case to decide how another side should best conduct discovery. One of the questions that Public Counsel seeks to answer is whether the assumptions that Mr. Cline and Mr. Bassham provided to the ratings agencies was based on the best available

information from the people actually involved in the CEP projects. Mr. Cline and Mr. Bassham can only provide a part of the answer to this question; people closer to the projects need to provide the rest of the answer.

3. KCPL/GPE argue that discovery should be limited in this case because some of the information is more relevant to – and arguably more important in – a case devoted to investigation of CEP/Regulatory Plan issues as opposed to this case. The general rule in Missouri is that discovery is allowable if it appears that it might lead to the discovery of relevant evidence. Just because that evidence might be more important in another case does not make it out of bounds in this case. KCPL/GPE does not address the central point of the filing that Staff, Public counsel and the Industrial Intervenors made on March 10, 2008: “In this case, Staff, Public Counsel and the Industrial Intervenors seek merely to verify that the assurances of the ratings agencies (referenced in the most recent testimony of Michael Cline and Terry Bassham) were based on accurate, up-to-date information.” The fact that that “accurate, up-to-date information” is also relevant to an investigation of CEP/Regulatory Plan issues does not make it immune from discovery in this case.

4. In paragraph 18, KCPL/GPE argues that allowing the depositions would “result in significant needless expense to Great Plains Energy and KPCPL....” Aside from the fact that it is more than a little disingenuous for KCPL/GPE – after spending tens of millions of dollars on lawyers and consultants to push for unprecedented and now partially abandoned regulatory treatment – to complain about expense, the depositions have been requested in a way to minimize expense to KCPL/GPE. They will be held at KCPL offices, Staff (not KCPL) will pay for court reporters, and none of the high-priced outside consultants have been subpoenaed. KCPL/GPE would only incur significant expense if KCPL/GPE chooses to use outside counsel

for the depositions rather than some of the many able attorneys on KCPL staff whose salaries are included in rates.

WHEREFORE, Public Counsel respectfully requests that the Commission deny the Motion for Protective Order of Great Plains Energy Inc. and Kansas City Power and Light Co. to Quash Deposition Subpoenas filed March 12, 2008.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 17th day of March 2008.

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