

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

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval of the)	
Accrual and Funding of Wolf Creek Generating)	Case No. EO-2006-0094
Station Decommissioning Costs at Current Levels)	

UNANIMOUS STIPULATION AND AGREEMENT

Kansas City Power & Light Company ("KCPL"), the Staff of the Missouri Public Service Commission ("Staff"), and the Office of the Public Counsel ("Public Counsel") (collectively the "Parties") hereby submit this Unanimous Stipulation and Agreement ("Agreement") to the Missouri Public Service Commission ("Commission") in resolution of Case No. EO-2006-0094.

INTRODUCTION

The Legislature provided, in Section 393.292 RSMo 2000,¹ that the Commission may authorize changes to the rates and charges of an electrical corporation as a result of a change in the level or annual accrual of funding necessary for its nuclear power plant decommissioning trust fund. This statute creates a narrow exception to the general requirement that the Commission must consider "all relevant factors," prior to changing any rate charged by a utility under its jurisdiction. See State ex. rel. Utility Consumers Council of Missouri, Inc. v. Public Serv. Comm'n, 585 S.W.2d 41 (Mo. banc 1979). Under Section 393.292, the Commission may limit its review in nuclear decommissioning trust fund cases to only those factors relevant to the funding level or accrual rate of the trust fund when deciding matters related to the rates and charges associated with that fund. Further, Section 393.292 gives the Commission authority to

¹ All statutory references are to Revised Statutes of Missouri 2000, unless otherwise noted. Section 393.292 was enacted by the Missouri Legislature in Laws 1989 and has not been amended.

adopt rules and regulations governing the procedures associated with these tariff changes as well as to ensure that the amounts contained in the trust funds will be neither “greater nor lesser than the amounts necessary to carry out the purposes of the trust.” In Case No. EX-90-110, the Commission adopted the original decommissioning rule, 4 CSR 240-20.070.

4 CSR 240-3.185(3) states, in part: “On or before September 1, 1990 and every three (3) years after that, utilities with decommissioning trust funds shall perform and file with the Commission cost studies detailing the utilities’ latest cost estimates for decommissioning their nuclear generating unit(s) along with the funding levels necessary to defray these decommissioning costs.”

KCPL established an external nuclear decommissioning trust fund as a result of its ownership interest in the Wolf Creek Generating Station (“Wolf Creek”) and the Commission’s Report and Order in the rate case authorizing KCPL to commence recovery of the costs of Wolf Creek. Kansas City Power & Light Co., Case Nos. EO-85-185 and EO-85-224, 28 Mo.P.S.C. (N.S.) 228 (1986). KCPL owns 47% of Wolf Creek and approximately 56% of KCPL’s 47% ownership share is allocated to KCPL’s Missouri retail operations.²

On August 29, 2002, KCPL filed an Application (Case No. EO-2003-0081) with the Commission for approval of its then-current decommissioning cost estimate and continuation of the then-current authorized funding level for its nuclear decommissioning trust fund for Wolf Creek. A Unanimous Stipulation and Agreement, settling all issues pertaining to Case No. EO-2003-0081 was filed on December 10, 2002. Among other things, said Unanimous Stipulation

² KCPL Missouri Surveillance Report 2004. Actual percentage calculation of 56.18 is derived by dividing Missouri Jurisdictional Plant Column 604 (\$751,849,884) by Total Company Plant Column 603 (\$1,338,395,637) found on Schedule 11, page 3 of 10, line 0400.

And Agreement maintained the annual decommissioning expense accrual and trust fund payment at \$2,303,856 (Missouri jurisdictional amount).

THE 2005 COST STUDY

Pursuant to 4 CSR 240-3.185(3), on August 30, 2005, KCPL filed its Application for Approval of the Accrual and Funding of Wolf Creek Decommissioning Costs at Current Levels (the “Application”). Attached to KCPL’s Application is the required cost study detailing the latest estimate for the cost to decommission Wolf Creek (the “2005 Study”). The 2005 Study was prepared for the Wolf Creek Nuclear Operating Corporation by TLG Services, Inc. (“TLG”), a consulting engineering firm based in Bridgewater, Connecticut.³

In the Application, KCPL requested that the Commission: (i) find that the 2005 Study satisfies the requirements of 4 CSR 240-3.185(3); (ii) approve the 2005 decommissioning cost estimate of \$517,610,000; (iii) approve the continuation of the annual accrual at the current level of \$2,303,856; and (iv) find that the Wolf Creek decommissioning costs are included in KCPL’s current cost of service and are properly reflected in current rates for ratemaking purposes. At page 3 of its Application, KCPL states, in part, as follows:

KCPL notes that pursuant to the terms of the Stipulation and Agreement approved by the MPSC in Case No. EO-2005-0329, KCPL must file its next general rate case by February 1, 2006. The effective date of the rates set in that case will be January 1, 2007. The level of KCPL’s annual Wolf Creek decommissioning cost accrual can be reviewed at that time in the context of the entirety of KCPL’s rates.

³ Since 1982, TLG has provided engineering and field services for contaminated facilities including estimates of decommissioning costs for nuclear generating units.

In the 2005 Study, TLG examined three decommissioning options: (a) DECON,⁴ (b) SAFSTOR,⁵ and (c) ENTOMB.⁶ All three alternatives are acceptable to the Nuclear Regulatory Commission (“NRC”). However, the ENTOMB option is currently not considered viable because the NRC is considering a rulemaking to alter the 60-year completion window and to clarify the use of engineered barriers for reactor entombments. Therefore, no 2005 cost analysis is provided pending outcome of a possible new NRC rulemaking. For the purposes of the 2005 Study, the final shutdown date of Wolf Creek is projected to occur in 2025⁷.

The 2005 Study provides a detailed analysis based on the premise that the current contribution to the decommissioning trust should be changed only if it does not result in a final trust account balance that is just sufficient to cover the predicted decommissioning costs under a

⁴ DECON assumes decontaminating and decommissioning immediately following conclusion of power operations in 2025. Work is anticipated to be completed by 2033. DECON consists of removal of fuel assemblies, source material, radioactive fission and corrosion products, and other radioactive materials immediately after cessation of power operations. Total estimated cost to decommission in 2005 Dollars is \$517,601,000.

⁵ SAFSTOR places the facility in protective storage for deferred decontamination to levels that permit release for unrestricted use. Delayed decontamination and dismantling activities are initiated once spent fuel and source material are removed, such that license termination is accomplished within the 60-year time period set by the NRC. This process is anticipated to be completed by 2086. Total estimated cost to decommission in 2005 Dollars is \$663,474,000.

⁶ ENTOMB places the facility in protective storage. Radioactive contaminants are encased in a long-lived material such as concrete and the entombed structure is appropriately maintained and continued surveillance is carried out until the radioactive material decays to a level permitting unrestricted release of the property. Initial activities include: removing contaminated components, systems, and structures outside the designated entombment boundary, and sealing the remaining radioactivity within the reactor containment building. This process is restricted in overall duration to 60 years and is anticipated to be completed by 2086. The 2005 Study states: “The 60-year restriction has limited the practicality of the ENTOMB alternative at commercial reactors that generate significant amounts of long-lived radioactive material.” As such, the NRC is currently re-evaluating this option and the technical requirements and regulatory actions that would be necessary for entombment to become a viable option.

⁷ If decommissioning financial assurance is provided by an external sinking fund, 10 CFR 50.75(e)(1)(ii) requires that “the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected.” Because KCPL does not contemplate shutting down Wolf Creek prior to the end of its license life, the shutdown date used in the 2005 Study is 2025, the year in which Wolf Creek’s NRC Operating license expires. Wolf Creek Nuclear Operating Corporation anticipates submitting an application to the NRC for a 20-year extension of its operating license in 2006.

reasonable set of economic, financial, and investment assumptions. The calculations set forth in the 2005 Study were performed in a manner consistent with previous filings.

The 2005 Study confirms the adequacy of the current annual funding level (\$2,303,856), given the current prediction of decommissioning costs from the 2005 Study (\$517,610,000). Based on this analysis, KCPL has concluded that its current funding level should result in a final decommissioning trust amount which is sufficient to cover the costs estimated in the 2005 Study under what KCPL believes are a reasonable set of economic, financial and investment assumptions. Consequently, KCPL does not seek any changes to its funding level, and asks the Commission to approve the current funding level amount. Because KCPL is not proposing a change in the funding level, KCPL has not filed new tariffs regarding its funding of decommissioning, is not requesting a hearing, and does not believe that a hearing is required respecting its decommissioning cost study filing.

Pursuant to the terms of the Stipulation and Agreement approved by the Commission in Case No. EO-2005-0329 (“Regulatory Plan Agreement”), KCPL must file its next general rate case by February 1, 2006 (“Rate Filing #1”). As set forth below, the Regulatory Plan Agreement includes specific provisions pertaining to KCPL’s Wolf Creek decommissioning costs.

STIPULATIONS AND AGREEMENTS

The Parties to this case have reached certain understandings so that the Staff, KCPL and Public Counsel stipulate and agree as follows:

1. KCPL’s Missouri retail jurisdictional operations annual decommissioning expense accrual and trust fund payment was set by the Commission at \$2,303,856, first in Case No. EO-91-84, Kansas City Power & Light Co., 1 Mo.P.S.C.3d 353 (1992), again in Case No. EO-94-80, Kansas City Power & Light Co., 3 Mo.P.S.C.3d 60 (1994), again in Case No. EO-97-

84, Kansas City Power & Light Co., 7 Mo.P.S.C.3d 124 (1998), again in Case No. EO-2000-210, Kansas City Power & Light Co., 8 Mo.P.S.C.3d 516 (2000), and again in Case No. EO-2003-0081.⁸

2. On August 30, 2005, KCPL filed its Application along with the 2005 Study. KCPL, the Staff and Public Counsel request that the Commission recognize in its Report and Order for this case that KCPL's Application and the 2005 Cost Study meet the requirements of 4 CSR 240-3.185(3).

3. The 2005 Study estimates the decommissioning cost for the DECON alternative to be \$517,601,000 in 2005 Dollars, which is 10.5% higher than the 2002 estimate of \$468,400,000, which represents approximately a 3.39% annualized escalation rate over the 3-year period.

4. KCPL deems the current contribution of \$2,303,856 to be reasonable inasmuch as it results from a set of economic, financial and investment assumptions, including inflation rates, which are themselves considered reasonable by KCPL. Therefore, KCPL believes that it is reasonable and prudent to continue the annual Missouri jurisdictional accruals at the current level of \$2,303,856. Consequently, KCPL requests in its Application that the Commission approve the continuation of the annual accrual at the current level.

⁸ In 1985 in KCPL's Wolf Creek rate case, KCPL and the Staff stipulated that the decommissioning cost of Wolf Creek was \$103,330,000 in 1985 Dollars. As a result of the Commission's Wolf Creek Report And Order, KCPL's Missouri jurisdictional annual trust fund payment requirement was set at \$803,000. Kansas City Power & Light Co., Case Nos. EO-85-185 and E0-85-224, 28 Mo.P.S.C.(N.S.) 228, 276-78 (1986). In Case No. EO-91-84, which was KCPL's first filing pursuant to 4 CSR 240-20.070, a Unanimous Stipulation and Agreement was accepted by the Commission which identified the cost in 1990 Dollars to immediately decommission Wolf Creek, as if it had completed 40 years of service, as being \$347 million and set KCPL's Missouri retail jurisdictional annual trust fund accrual and payment requirement as \$2,303,856. The great increase in the cost estimate was due principally to a major increase in the projected cost charged by licensed facilities for disposal of low-level radioactive waste. (Low-level radioactive waste should not be confused with high-level radioactive waste and spent nuclear fuel. The federal fee, which is collected with each kilowatt hour of electricity generated by Wolf Creek, relates to disposal facilities for high-level radioactive waste and spent nuclear fuel, not disposal facilities for low-level radioactive waste.)

5. KCPL shall continue its Missouri retail jurisdictional expense accruals and trust fund payments at current levels without any change in its Missouri retail jurisdictional rates, unless and until the Commission subsequently approves such a change.

6. Annual decommissioning costs in the amount of \$2,303,856 are, and should continue to be, included in KCPL's cost of service and reflected in its current rates for ratemaking purposes. KCPL, the Staff and Public Counsel request that this finding be specifically recognized in the Commission's Report and Order and note that this finding is required in order for the decommissioning fund to retain its qualified tax status.

7. On January 16, 2004, KCPL filed in Case No. EU-2004-0294 an Application for an Accounting Authority Order authorizing it to place Asset Retirement Obligations (ARO) costs in regulatory deferred accounts so that current regulatory treatment for and recovery of those costs would not be altered due to KCPL adopting Statement of Financial Accounting Standard No. 143 (SFAS 143). At a prehearing conference on January 29, 2004, the Staff and KCPL indicated that they thought that they were close to an agreement on language for a Staff recommendation to the Commission that would address the needs of KCPL. KCPL indicated that the Staff Recommendation that Staff, Public Counsel, and KCPL had been discussing would provide the assurance that KCPL's external auditor, Deloitte & Touche, was seeking regarding KCPL's Wolf Creek decommissioning funding and SFAS 143. On January 30, 2004, the Staff filed a Recommendation with the Commission providing language for a Commission Order addressing KCPL's concerns. The Staff related that it had been authorized to indicate to the Commission that Public Counsel concurred in the Staff's Recommendation. On February 2, 2004, KCPL filed a pleading stating its concurrence with the Staff Recommendation. On March 5, 2004, the Commission issued an Order in Case No. EU-2004-0294 approving and adopting the

Staff Recommendation and Memorandum attached thereto. The Parties agree that KCPL shall continue to record and preserve Wolf Creek asset retirement obligation costs, as agreed to by the Staff, Public Counsel and KCPL, and authorized by the Commission, in Case No. EU-2004-0294

8. Section III.B.1.m of the Regulatory Plan Agreement provides that:

KCPL agrees to determine the effect on the depreciation reserve related to the difference in depreciation rates for [Wolf Creek] resulting from the depreciation rates approved in Missouri and Kansas prior to [the Regulatory Plan Agreement]. KCPL further agrees to include this information in its filing related to Rate Filing #1 required in [the Regulatory Plan Agreement] for review by the Signatory Parties [thereto] and Commission approval. The identified amount of depreciation reserve resulting for Missouri operations shall be identified and be assigned specifically to Missouri jurisdictional operations in Rate Filing #1 and all subsequent cases involving KCPL or its successors. It is the intent of this requirement to ensure Missouri ratepayers receive credit (via the rate base deduction afforded depreciation reserve funds) for providing additional depreciation expense to KCPL and eliminating the possibility of these funds being allocated in future cases to the Kansas jurisdiction or other jurisdictions that did not provide the funds.

9. Section III.B.1.n of the Regulatory Plan Agreement provides that:

Upon the effective date of [the Regulatory Plan Agreement], KCPL will begin recording depreciation expense for [Wolf Creek] based on a 60-year life span. The Signatory Parties [to the Regulatory Plan Agreement] agree the Commission should authorize KCPL to use depreciation rates for the various nuclear plant accounts, as contained in Appendix G [of the Regulatory Plan Agreement] “Depreciation & Amortization Rates, Missouri Jurisdictional.”

10. Section III.B.1.h of the Regulatory Plan Agreement provides that:

KCPL shall record additional amortization expense in the amount of \$10.3 million on an annual Missouri jurisdictional basis beginning with the effective date of [the Regulatory Plan] Agreement until the effective date of the tariffs resulting from Rate Filing #1, per Paragraph III.B.3.a of [the Regulatory Plan] Agreement. This amount is equal to the change in depreciation expense reflecting a change in service life span of [Wolf Creek] from 40 to 60 years provided for in Paragraph III.A.3.n of [the Regulatory Plan] Agreement.

KCPL, Staff, Public Counsel and other Signatory Parties [to the Regulatory Plan Agreement] may propose that these amortizations be

directed toward specific plant accounts: Provided, however, that the Wolf Creek amortizations will be assigned only to the nuclear generation plant accounts. Any such accumulated amortizations will be used as an offset to rate base, in future rate proceedings of KCPL or its successors.

11. KCPL or its trustee shall file on a prospective basis in the instant case one copy of the quarterly reports required by 4 CSR 240-3.185(1) and one copy of the annual reports required by 4 CSR 240-3.185(2). Payments to the trustee of the external trust fund are made on a quarterly basis in the month following the end of the quarter to which the payment applies.

12. None of the Parties to this Agreement shall be deemed to have approved or acquiesced in any question of Commission authority, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence that may underlie this Agreement or for which provision is made in this Agreement.

13. If the Commission does not unconditionally approve this Agreement without modification, and notwithstanding its provision that it shall become void thereon, neither this Agreement nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Party has to a hearing on the issues presented by the Agreement, regarding cross-examination or a decision in accordance with Section 536.080.1 RSMo or Art. V, Section 18 Mo. Const. The Parties shall retain all procedural and due process rights as fully as though this Agreement had not been presented for approval, and any testimony or exhibits that may have been offered or received in support of or in opposition to this Agreement shall thereupon become privileged as reflecting the substantive content of settlement discussions, and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

14. To assist the Commission in its review of this Agreement, the Parties also request that the Commission advise them of any additional information that the Commission may desire from the Parties related to the matters addressed in this Agreement, including any procedures for furnishing such information to the Commission.

15. The Staff will file a Staff Recommendation in memorandum form in conjunction with this Agreement. The Staff intends that the Staff Recommendation will serve as its suggestions in support of the Agreement. The other Parties shall have the right to file responses. Any memorandum submitted shall not bind or prejudice the Party submitting such memorandum in any future proceeding or in this proceeding, whether or not the Commission approves this Agreement. The contents of any memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Agreement, whether or not the Commission approves and adopts this Agreement.

16. If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum responsive to the Commission's request. Each Party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission within five (5) days of receipt of the Staff's memorandum, a responsive memorandum which shall also be served on all Parties. The contents of any memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Agreement, whether or not the Commission approves and adopts this Agreement.

17. The Staff also shall have the right to provide, at any agenda meeting at which this Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other Parties with advance notice of when the Staff shall respond to the Commission's request

for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosures, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

18. Because this is an Agreement with the sole purpose of addressing the authority requested by the Application of KCPL, except as specified herein, the Parties to the Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Agreement: (i) in any future proceeding; (ii) in any proceeding currently pending under a separate docket; and/or (iii) in this proceeding, should the Commission decide not to approve the Agreement or in any way condition its approval of the same, except as stated herein. Because this is an Agreement for the purpose of settling matters in this case, it shall not be cited as precedent or referred to in testimony as an assertion of the particular position of any Party in any subsequent or pending judicial or administrative proceeding, except that this shall not be construed to prohibit reference to its existence in future proceedings, including proceedings to enforce compliance with its terms.

19. The 2005 Study shall be received into evidence.

20. Pursuant to 393.290 RSMo, the Parties agree that the Commission may review and authorize changes to KCPL's rates and charges as a result in a change in the annual accrual of funding for the Missouri jurisdictional sub-account of the Wolf Creek decommissioning trust after a full hearing, including but not limited to any general rate increase case or excess earnings complaint case, and after considering all facts relevant to such accrual rate.

21. The provisions of this Agreement have resulted from numerous discussions/negotiations among the signatory Parties and are interdependent. In the event that the Commission does not approve and adopt the terms of this Agreement in total, it shall be void

and no Party hereto shall be bound by, prejudiced, or in any way affected by any of the agreements or provisions hereof unless otherwise provided herein.

22. In the event the Commission accepts the specific terms of this Agreement, the signatories waive their respective rights: (i) to cross-examine witnesses pursuant to Section 536.070(2) RSMo; (ii) to present oral argument and written briefs pursuant to Section 536.080.1 RSMo; (iii) to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo; and (iv) to judicial review pursuant to Section 386.510 RSMo. This waiver applies only to a Commission Report and Order respecting this Agreement issued in this proceeding, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Agreement.

WHEREFORE, the signatories hereto request that the Commission issue an order:

1. Approving this Unanimous Stipulation And Agreement;
2. Receiving into evidence this Unanimous Stipulation and Agreement and the 2005 Study;
3. Finding that KCPL's 2005 Cost Study satisfies the requirements of 4 CSR 240-3.185(3);
4. Finding, pursuant to this Unanimous Stipulation And Agreement, that KCPL's retail jurisdiction annual decommissioning expense accruals and trust fund payments shall continue at the current level of \$2,303,856;
5. Finding, in order for the decommissioning fund to retain its qualified tax status, that the current decommissioning costs for Wolf Creek are included in KCPL's current cost of service and are reflected in its current rates for ratemaking purposes;

6. Authorizing KCPL to continue to record and preserve Wolf Creek asset retirement obligation costs, as agreed to by the Staff, Public Counsel and KCPL, and authorized by the Commission, in Case No. EU-2004-0294; and
7. Directing that KCPL or its trustee file, on a prospective basis in Case No. EO-2006-0094, one copy of the quarterly reports required by 4 CSR 240-3.185(1) and one copy of the annual reports required by 4 CSR 240-3.185(2).

Respectfully submitted,

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Dated: December 20, 2005

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 20th day of December 2005.

/s/ Steven Dottheim