

**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)	

MOTION FOR EXTENSION OF EFFECTIVE DATE

COMES NOW the Office of the Public Counsel, and Sedalia Industrial Energy Users' Association, AG Processing, Inc. and Praxair, Inc. (herein referred to as "Movants") and for their Motion for Extension of effective Date state as follows:

1. On July 1, 2008, at approximately 4:45 P.M., the Commission issued its Report and Order in this case. The Report and Order is 285 pages long, and bears an effective date of July 11, 2008.

2. To be timely pursuant to Section 386.500 RSMo 2000, any application for rehearing must be filed before the effective date of the Report an Order. In this case, that means that applications for rehearing must be filed no later than July 10, 2008. The Commission has consistently taken the position that, despite the fact that it accepts filings 24 hours a day, applications for rehearing must be filed no later than 5:00 P.M. on the last business day before the effective date.¹

3. July 4, 2008 was a holiday recognized by the local, state, and federal government

¹ See, *e.g.*, Order Denying Applications for Rehearing issued April 16, 2008 in Case No. EX-2008-0105. See also Motion to Quash, filed November 11, 2007, in Case Number 07AC-CC00926.

– indeed by most businesses except some retailers. With the Commission issuing the Report and Order at the very end of the day on July 1, and the July 4 holiday, the Commission has allowed **only six** business days to: 1) read one of the longest orders the Commission has ever issued; 2) digest that order and evaluate its implications and consequences; 3) read and analyze the dozens of cases cited in the order; 4) analyze the portions of the record² cited by and relied upon by the Commission; 5) analyze the portions of the record that the Commission chose not to cite and rely upon; and 6) draft, review and file a comprehensive application for rehearing. Moreover, there are no “do-overs” for applications for rehearing; any arguments not raised in a timely application for rehearing are deemed waived.

4. Six business days is not nearly sufficient to accomplish all these tasks. As the Missouri Supreme Court recently noted: “The law specifies 30 days for applying for rehearing but allows the PSC the discretion to set a shorter time **as long as the time is reasonable.**”³ While there possibly may be cases in which it would be reasonable to shorten the statutory thirty days to only six business days, given the complexity of the issues and the length of the Report and Order here, this is certainly not one of them.

5. The current arrangement among the Joint Applicants and Black Hills Corporation allows for a closing as late as August 6, 2008,⁴ so there is time to allow the full thirty days that the law specifies. As the Commission is aware, the Joint Applicants requested and received a three-month hiatus in the case so that they could retool the merger proposal and remove some of the most egregiously anti-consumer provisions.⁵ It would be patently unfair to allow the Joint

² The Commission recognized the extraordinarily voluminous nature of the record at pages 24-25 of the Report and Order.

³ State ex rel. Office of the Pub. Counsel v. PSC, 236 S.W.3d 632, 637 (Mo. 2007)

⁴ Transcript Volume 11, page 1488.

⁵ Moreover, the Joint Applicants caused another lengthy delay (essentially from April to August 2007) in the proceedings when they retooled their case in their first supplemental direct

Applicants to eat up much of the time they contracted for in the merger contracts, and then shorten the statutorily-provided time allowed for rehearing “because there is a clock ticking ... with regard to when the proposed transaction will expire.”⁶ Furthermore, there is every reason to believe that these entities are so committed to this transaction that they would extend that date if necessary.

6. The Joint Applicants have clearly indicated that they will take irrevocable steps to combine the companies, hire and fire employees, change company names, etc. as soon as possible after the Report and Order is effective.⁷ This particular transaction will be extremely messy to undo should the Commission decide rehear or reconsider issues based on applications for rehearing. It would be in the public interest for the Commission to extend the effective date of its Report and Order to allow a reasonable time for rehearing, and also to make the approvals in the Report and Order effective sufficiently after the effective date of the Report and Order to allow the Commission to consider applications for rehearing before the companies consummate the transaction. Even if the Commission declines to extend the effective date of the Report and Order, it should still extend the effective date of the approvals beyond the effective date of the order so that it may consider applications for rehearing while there is still time for meaningful action based upon them.

WHEREFORE, Movants respectfully request that the Commission: 1) extend the effective date of the Report and Order to at least July 18, 2008; and 2) extend the effective date of the approvals granted in Ordered Paragraphs 1, 2, 3, 4, 5 and 10 until at least August 6, 2008, and the effect of Ordered Paragraphs 6 and 7 accordingly.

testimony filing.

⁶ Report and Order, page 24.

⁷ See, *e.g.*, Joint Motion of Great Plains Energy and Aquila, Inc. for Expedited Treatment of Application for Change of Name filed July 2, 2008 in Case No. EN-2009-0015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 7th day of July 2008.

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