

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

In the Matter of a Proposed Experimental)	
Regulatory Plan of Kansas City Power &)	Case No. EO-2005-0329
Light Company)	

**KCPL AND STAFF'S MOTION
FOR LEAVE TO SUPPLEMENT THE SIGNATORY PARTIES'
SUGGESTED REPORT AND ORDER (PROPOSED FINDINGS
OF FACT AND CONCLUSIONS OF LAW) FILED ON JULY 19, 2005**

Comes now Kansas City Power & Light Company ("KCPL") and the Staff of the Missouri Public Service Commission ("Staff") of the Signatory Parties¹ to the Stipulation And Agreement, and file this Motion For Leave To Supplement The Signatory Parties' Suggested Report And Order (Proposed Findings Of Fact And Conclusions Of Law) Filed On July 19, 2005 by KCPL. In support of this Motion, the Staff and KCPL state as follows:

1. At the close of the evidentiary hearings on July 12, 2005, Presiding Regulatory Law Judge Ronald D. Pridgin directed the Signatory Parties and Concerned Citizens of Platte County (Concerned Citizens)/Sierra Club (SC) to file Suggested Report And Orders (Proposed Findings Of Fact And Conclusions Of Law) on July 19, 2005. KCPL drafted a Suggested Report And Order (Proposed Findings Of Fact And Conclusions Of Law) regarding which the Staff submitted various suggestions to KCPL and KCPL incorporated the Staff's suggestions in the document filed by KCPL on July 19, 2005.

¹ The other Signatory Parties to the Stipulation And Agreement include the Office of the Public Counsel ("Public Counsel"), Missouri Department of Natural Resources ("MDNR"), Praxair, Inc. ("Praxair"), Missouri Industrial Energy Consumers ("MIEC"), Ford Motor Company ("Ford"), Aquila, Inc., d/b/a Aquila Networks, Aquila Networks-MPS and Aquila Networks-L&P, ("Aquila"), The Empire District Electric Company ("Empire"), Missouri Joint Municipal Electric Utility Commission ("MJMEUC"), and the City of Kansas City, Missouri ("Kansas City").

2. Concerned Citizens/Sierra Club filed on July 19, 2005 Proposed Findings Of Fact And Conclusions Of Law and on July 21, 2005 filed a Posthearing Brief in which Concerned Citizens/Sierra Club raised at least three (3) issues for the first time. As a consequence, those three (3) issues were not addressed in the Signatory Parties' Suggested Report And Order (Proposed Findings Of Fact And Conclusions Of Law) filed by KCPL on July 19, 2005. The Staff was able to respond to an extent to two (2) of Concerned Citizens/Sierra Club's new issues in the Staff's Post-Hearing Brief. KCPL and the Staff believe it only appropriate to provide the Commission with a Supplement to the previously filed Signatory Parties' Suggested Report And Order (Proposed Findings Of Fact And Conclusions Of Law) which Supplement merely addresses these three (3) issues. Given the Post-Hearing Briefs that were due on July 21, 2005 and required work in other Commission proceedings, KCPL and the Staff are filing the accompanying Supplement as soon as has been possible to do so.

3. The three (3) new issues raised by Concerned Citizens/Sierra Club for the first time in their July 19, 2005 Proposed Findings Of Fact And Conclusions Of Law are: (a) the contention that meetings of the Customer Programs Advisory Group ("CPAG") are covered by Chapter 610, and, thus, must be open public meetings, (b) the contention that pursuant to Section 393.170.3 RSMo 2000, the 1973 and 1978 certificates of convenience and necessity received by KCPL, St. Joseph Light & Power Company and Empire are null and void respecting the proposed construction of Iatan 2 and (c) the contention that the Stipulation And Agreement comprising the Missouri KCPL Experimental Regulatory Plan is not ripe for Commission consideration since it is not a final document (due to amendments that the Signatory Parties may seek to adopt, and have the Commission approve, to reflect terms accepted or directed by the Kansas Corporation

Commission (KCC)), and, therefore, the Commission cannot lawfully approve the Stipulation And Agreement comprising the KCPL Experimental Regulatory Plan.

4. The Commission's May 6, 2004 Order Establishing Procedural Schedule clearly states at page 2, in part, as follows:

The parties shall agree upon and the Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing and the order in which they shall be called and the order of cross-examination for each witness. Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

The List Of Issues, Order Of Witnesses To Be Heard Each Day, Order Of Cross-Examination And Request For Waiver Of Rule was filed by Staff, on behalf of all parties, on May 31, 2005 which states on page 2, in part, as follows:

All parties reserve the right to inquire into and establish a position, regarding any issue that is relevant to these proceedings that arises during the course of the proceedings as a new issue based on matters which could not reasonably have been contemplated based on the filings and pleadings herein as of the date hereof.

The three (3) new issues raised by Concerned Citizens/Sierra Club for the first time on July 19, 2005 could have been reasonably contemplated as issues by Concerned Citizens/Sierra Club by May 31, 2005 based on the filings and pleadings made prior to May 31, 2005. As a consequence, these issues should have been raised by Concerned Citizens/Sierra Club in the List Of Issues filed by the Staff on May 31, 2005.

5. Regarding a meeting held on June 30, 2005 respecting Demand Response, Energy Efficiency and Affordability Programs, Concerned Citizens/Sierra Club seeks to imply inappropriate goings on by other parties, in their description of events at page 8 of their Posthearing Brief and in the affidavit attached to their Posthearing Brief. A representative of the Sierra Club arrived late to the June 30, 2005 meeting, and, therefore, entered the meeting which was already in progress. Those in attendance sought to be very solicitous of the Sierra Club

representative in, among other things, explaining why first counsel for the Staff and Praxair, and then the other representatives of Signatory Parties in attendance, were convening in an adjoining meeting room to discuss the appropriate procedure to be followed at that point. The Sierra Club representative offered to leave the premises entirely, but it was suggested to her that she not do so while the others discussed the appropriate procedure to be followed.²

The discussion that occurred in the adjoining room outside of the presence of the representative from the Sierra Club was whether any meeting should continue, if the meeting continued should it include the Sierra Club representative and what would be the nature of such a meeting, given the fact that the CPAG did not then officially exist. The Signatory Parties in attendance reached the conclusion that the instant meeting did not constitute a meeting of the CPAG, since the Commission had not yet taken action respecting the Stipulation And Agreement. The Sierra Club representative was invited to stay for the meeting attended by representatives of the Staff, Public Counsel, MDNR, KCPL and the KCC Staff.

Wherefore Kansas City Power & Light Company and the Staff request leave of the Commission to file a Supplement To Suggested Report And Order (Proposed Findings Of Fact And Conclusions Of Law) filed on July 19, 2005 by Kansas City Power & Light Company.

² The Sierra Club representative appeared at the on the record conference held on January 18, 2005 in the workshop docket, Case No. EW-2005-0596, and gave the address of the Ozark Chapter of the Sierra Club as Columbia, Missouri and on June 30, 2005 again indicated that she was from Columbia, Missouri. (Thus, for the Sierra Club representative to have appeared at the reconvened evidentiary hearing on July 12, 2005 would not have involved a trip from Platte County or Jackson County, Missouri.)

A representative from the Staff of the Kansas Corporation Commission (KCC Staff) also attended the meeting and offered to leave the premises. The discussion which occurred in the adjoining meeting room included whether it was appropriate for the representative of the KCC Staff to be in attendance. Although the KCC Staff is not a Signatory Party to the Missouri KCPL Experimental Regulatory Plan, the KCC Staff is a signatory to the Kansas KCPL Experimental Regulatory Plan which is very similar, but not a mirror image to the Missouri KCPL Experimental Regulatory Plan.

Respectfully submitted,

STAFF OF THE MISSOURI
PUBLIC SERVICE COMMISSION

KANSAS CITY POWER & LIGHT COMPANY

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 27th day of July 2005.

/s/ Steven Dottheim