

**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,	)	<b><u>Case No. EM-2007-0374</u></b>
Inc. for Approval of the Merger of Aquila,	)	
Inc. with a Subsidiary of Great Plains Energy	)	
Incorporated and for Other Related Relief	)	

**MOTION TO MAKE CERTAIN DOCUMENTS PUBLIC  
AND REQUEST FOR WAIVER**

COMES NOW the Office of the Public Counsel and for its Third Motion to Make Certain Documents Public and Request for Waiver states as follows:

1. On February 25, 2008, the Joint Applicants<sup>1</sup> filed a motion for leave to file additional supplemental testimony. Along with that motion, KCPL/GPE filed testimony of three KCPL/GPE witnesses: Michael Cline, Chris Giles and Terry Bassham. Portions of the testimony of Mr. Cline and Mr. Bassham were designated as Highly Confidential. Most of the information so designated has to do with information provided to and responses from two ratings agencies: Standard and Poor's (S&P) and Moodys.<sup>2</sup>

2. Although Joint Applicants are **public** utilities, filing with the **Public** Service Commission, in a matter in which the central issue is the **public** interest, Joint Applicants continue to simply declare entire documents as Highly Confidential without making any attempt

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<sup>1</sup> Great Plains Energy, Inc. (GPE), Kansas City Power and Light Company (KCPL), and Aquila, Inc.

<sup>2</sup> Specifically, the designated information related to ratings agencies is: 1) Mr. Cline's testimony at page 4, lines 20-23; 2) Schedules MWC-18 and MWC-19 attached to Mr. Cline's testimony; and 3) Mr. Bassham's testimony at page 5, line 22 through page 6, line 2. The other designated information has to do with the cost of Aquila's debt and is found in Mr. Cline's testimony at page 3, lines 14 and 15 and Schedule MWC-17.

to sort out which specific words, phrases or numbers – if any – are actually Highly Confidential.

3. Commission rule 4 CSR 240-2.135(1)(B) prescribes what information may be designated as HC:

Highly confidential information is information concerning:

1. Material or documents that contain information relating directly to specific customers;
2. Employee-sensitive personnel information;
3. Marketing analysis or other market-specific information relating to services offered in competition with others;
4. Marketing analysis or other market-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;
5. Reports, work papers, or other documentation related to work produced by internal or external auditors or consultants;
6. Strategies employed, to be employed, or under consideration in contract negotiations; and
7. Information relating to the security of a company's facilities.

The information provided to ratings agencies and responses from the ratings agencies do not fall within **any** of these categories; neither does the information about the cost of Aquila debt. Much of Schedules MWC-18 and MWC-19 concern historical public information (when certain filings were made, what public announcements ratings agencies made in the past, etc.). Schedule MWC-17 is simply a calculation of the cost of Aquila's debt and its impact on Aquila's Missouri jurisdictional operations. Nothing in the information designated as Highly Confidential has anything to do with specific customers, with specific employees, or with marketing. It is not related to work produced by internal or external auditors or consultants. It has nothing to do with contract negotiations or the security of facilities. In short, it is not the type of information allowed to be designated Highly Confidential pursuant to the Commission's rules. Furthermore, the public interest in having this information in the public record and available to the public far outweighs any desire on KCPL/GPE's part to keep it secret.

4. 4 CSR 240-2.135(11) provides that: "Not later than ten (10) days after testimony

is filed that contains information designated as proprietary or highly confidential, any party that wishes to challenge the designation of the testimony may file an appropriate motion with the commission.” Although the designated testimony was filed more than ten days ago, good cause exists for a waiver of this portion of the rule. First, although the testimony was received into EFIS on February 25, it was not filed pursuant to a Commission order. The Commission authorized its filing *post hoc*, on February 28. Second, the course this case has taken (with Joint Applicants filing at least three sets of direct testimony on at least three different occasions) does not fit the normal mold that the Commission’s rules are designed to address. Third, the public interest is best served by having as much information in the public domain as possible; this interest outweighs any need for strict compliance with a ten-day response window. Fourth, because the exhibits are so voluminous and because KCPL/GPE made no effort to indicate what particular information might be sensitive and why, Public Counsel has had to analyze it to try to understand what harm might accrue to Joint Applicants if it is made public. Finally, because resumption of the hearings is still a month away, the Joint Applicants (and the other parties and the Commission) will not be harmed by considering this motion outside the ten-day window; parties will have ample opportunity to respond and the Commission will have ample opportunity to rule.

WHEREFORE, Public Counsel respectfully requests that the Commission open up to the public view all of the testimony and schedules of KCPL witnesses Cline and Bassham filed on February 5, 2008, and for good cause waive compliance with 4 CSR 240-2.135(11).

Respectfully submitted,

OFFICE OF THE Public Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed to all parties this 21<sup>st</sup> day of March 2008.

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