

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

In the Matter of the Application of Kansas City )  
Power & Light Company for Approval to )  
Make Certain Changes in its Charges for )  
Electric Service to Implement its Regulatory )  
Plan. )

Case No. ER-2009-0089

**PUBLIC COUNSEL’S POSITION STATEMENT**

**COMES NOW** the Office of the Public Counsel and submits its Position Statement. This position statement follows the same numbering format as the list of issues filed by the Staff of the Commission on April 13, 2009. Although there are some issues on which Public Counsel does not at this time take a position, Public Counsel may take a position on those issues as evidence is adduced at the hearing.

**REVENUE REQUIREMENT**

**Rate Base**

1. Iatan 1 Selective Catalytic Reduction (“SCR”) facility, Flue Gas Desulphurization (“FGD”) unit and Baghouse (collectively “Iatan 1 AQCS-Air Quality Control Systems-Rate Base Additions”):
  - a. What criteria should the Commission use to determine when the Iatan 1 AQCS Rate Base Additions are “fully operational and used for service? **Public Counsel takes no position at this time.**
  - b. Are the Iatan 1 AQCS Rate Base Additions fully operational and used for service? **Public Counsel takes no position at this time.**
  - c. Has KCPL carried its burden of proving the costs of its Iatan 1 AQCS Rate Base Additions? **Public Counsel takes no position at this time.**
  - d. Should the costs of the Iatan 1 AQCS Rate Base Additions that exceed KCPL’s “definitive estimate” of \$376.8 million before inclusion of Iatan 2 common costs and allocation be allocated and included in KCPL’s rate base on an interim subject to refund basis? **Public Counsel takes no position at**

**this time.**

- e. Is it lawful for the Commission to designate a portion of the rates in this case “interim rates, subject to refund,” if KCPL has not voluntarily agreed to any rates being interim subject to refund? **Public Counsel takes no position at this time.**
- f. Should a regulatory asset be established to defer carrying cost and depreciation expense associated with the Iatan 1 AQCS Rate Base Additions appropriately recorded to Electric Plant in Service that are not included in KCPL’s rate base in the current rate case. **Public Counsel takes no position at this time.**
- g. How should Iatan 1 test energy and emission credits during the testing of Iatan 1 be treated? **Public Counsel takes no position at this time.**

**2. Iatan Common Costs:**

- a. Has KCPL carried its burden of proving the common costs of its Iatan 1 and Iatan 2 construction projects? **Public Counsel takes no position at this time.**
- b. What portion of the Common Costs of the Iatan 1 and Iatan 2 construction projects should be included in KCPL’s rate base in this proceeding? **Public Counsel takes no position at this time.**
- c. Should a regulatory asset be established to defer carrying cost and depreciation expense associated with the portion of the Common Costs of the Iatan 1 and Iatan 2 construction projects appropriately recorded to Electric Plant in Service that are not included in KCPL’s rate base in the current rate case, or should these costs be considered Iatan 2 project costs? **Public Counsel takes no position at this time.**

**3. Surface Transportation Board Litigation:**

- a. What is the appropriate assignment between Missouri and Kansas retail customers and the City of Independence of the Surface Transportation Board Litigation reparations KCPL received? **Public Counsel takes no position at this time.**
- b. Should the amount of Missouri jurisdictional unrecovered Surface Transportation Board Litigation costs be adjusted for the amount related to the return included in the revenue requirements in the 2007 KCPL Rate Case? **Public Counsel takes no position at this time.**

**4. Materials & Supplies:**

- a. Does the thirteen-month average or the most current balance best predict

KCPL's material and supplies cost and, therefore, should be included in KCPL's rate base for setting rates in this case? **Public Counsel takes no position at this time.**

5. Injuries & Damages:

- a. Is there a mismatch between when KCPL pays Injuries & Damages and when it recovers those payments from its ratepayers such that Injuries and Damages should be a component of Cash Working Capital? **Public Counsel takes no position at this time.**
- b. If so, what is the appropriate number of days of lag between when KCPL recovers Injuries & Damages payments from its ratepayers and when KCPL pays Injuries and Damages? **Public Counsel takes no position at this time.**
- c. Should Injuries & Damage Reserve balance be used as a Rate Base reduction? **Public Counsel takes no position at this time.**

6. Demand-Side Management:

- a. Should the Commission waive the requirements of KCPL's Regulatory Plan and authorize a return on DSM unamortized costs different than the allowance for funds used during construction rate specified in the Regulatory Plan? **Public Counsel takes no position at this time.**
- b. If the Commission authorizes a return on DSM unamortized costs different than the allowance for funds used during construction rate specified in KCPL's Regulatory Plan, then what return should the Commission authorize? **Public Counsel takes no position at this time.**
- c. If the Commission authorizes a return on DSM unamortized costs different than the return specified in KCPL's Regulatory Plan, what impact will that have on KCPL's Regulatory Plan? **Public Counsel takes no position at this time.**

7. Gross Receipts Taxes:

- a. KCPL pays gross receipts taxes to the City of Kansas City and other Missouri cities. For each city that imposes a gross receipts tax, is there a mismatch between when KCPL pays the gross receipts tax and when it recovers for the tax payments from its ratepayers such that the gross receipt tax should be a component of Cash Working Capital? **Public Counsel takes no position at this time.**
- b. If so, for each such city, what is the appropriate number of days of lag between when KCPL recovers the gross receipts tax payments from its ratepayers and when KCPL pays the gross receipts tax? **Public Counsel takes no position at this time.**

## COST OF CAPITAL

1. Return on Common Equity: What return on common equity should be used for determining KCPL's rate of return? **A return on common equity of 10.3% should be used for determining KCPL's rate of return.**
2. Capital Structure: **Public Counsel takes no position at this time.**

## EXPENSES

1. Fuel & Purchased Power Expense, and Off-System Sales Margins:
  - a. How should natural gas costs be determined? **Public Counsel takes no position at this time.**
  - b. How should Wolf Creek fuel oil expense be determined? **Public Counsel takes no position at this time.**
  - c. How should the Commission determine the level of non-firm off-system sales margin to use for setting rates in this case? **The RealTime™ production cost model based on updated Staff inputs should be used to estimate the level of non-firm off-system sales that should be adopted for purposes of determining revenue requirement in this case. Dr. Proctor's method of developing prices based on historic measures updated for known and measurable changes should be adopted. The Company proposal to establish the level of non-firm off-system sales at the 25th percentile should be rejected.**
  - d. Should non-asset-based off-system sales (also referred to as "Q Sales") be excluded from KCPL's revenue requirement (treated "below-the-line"), or should these Q Sales be included in KCPL's revenue requirement?
    - i. If these non-asset-based off-system sales are treated "below-the-line," has KCPL assigned an appropriate amount of its costs to the support of this non-regulated activity? **The Commission should not allow KCPL to exclude (e.g. treat below-the line) non-asset based off-system sales revenues from the Company's revenue requirement. Public Counsel believes that by seeking to exclude non-asset based off-system sales revenues from the Company's revenue requirement, KCPL has failed to "abide by all of the terms and requirements in the March 28, 2005 Stipulation and Agreement" as ordered by the Commission in its Report and Order in Case No. EO-2005-0329 and may be subject to penalties for its actions.**
2. Executive Compensation: What is the appropriate level of executive compensation to be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
3. Short-term Incentive Compensation: Should short-term incentive compensation plans be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**

4. Supplemental Executive Retirement Pension (SERP) Costs: What level of SERP costs should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
5. Talent Assessment: Should the amortization of severance costs and related costs associated with the Talent Assessment program be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
6. Non-Talent--Severance Costs: What level of severance costs of KCPL employees terminated for reasons other than KCPL's talent assessment program should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
7. Payroll Overtime: What level of payroll overtime should be included in KCPL's revenue requirement for purposes of setting KCPL's rates? **Public Counsel takes no position at this time.**
8. Other Benefits: What amount of Other Benefits transferred to joint partners should be included in KCPL's revenue requirement for purposes of setting KCPL's rates? **Public Counsel takes no position at this time.**
9. Hawthorn 5 SCR Warranty Settlement: Should a settlement payment from Hawthorn 5 SCR warranty litigation be used to offset the costs that KCPL seeks to charge customers now and into the future because the Hawthorn 5 SCR has not, does not and will not operate within its design parameters? **Public Counsel takes no position at this time.**
10. Hawthorn Transformer Settlement: Should a settlement payment from defective product litigation over the Hawthorn 5 transformer be used to offset the increased costs KCPL is seeking to recover from its customers through rates in this case for the more expensive replacement transformer and the premature retirement of the defective transformer? **Public Counsel takes no position at this time.**
11. Current Income Tax: Should the KCPL's current income tax expense be calculated on a KCPL stand-alone basis, or as part of a consolidated group that includes Great Plains Energy, Inc. and KCP&L Greater Missouri Operations Company among others? **Public Counsel takes no position at this time.**
12. Property Tax Expense: Should property taxes in the amount of \$1,043,890 (total company, i.e., Missouri and Kansas) assessed and paid in 2008, and capitalized into the cost of the new Air Quality Control System ("AQCS") at the Iatan 1 generating station (included in rate base) also be included as an annualized property tax expense to KCPL and included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
13. Fleet Fuel Costs: What is the appropriate level of fleet fuel costs that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel believes that test year expense levels should be adjusted to reflect current costs of fuel.**
14. Edison Electric Dues: What is the appropriate amount for EEI dues that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**

15. Bad Debt Expense: What is the appropriate level of bad debt expense that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
16. Wolf Creek Depreciation:
  - a. What is the appropriate level of depreciation expense that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
  - b. Should DOE/NNSA's proposed adjustment of \$4,429,884 to reduce depreciation expense be adopted? **Public Counsel takes no position at this time.**
17. Accumulated Depreciation: Are the concerns raised by DOE/NNSA regarding the relationship between KCPL's accumulated depreciation adjustment and the depreciation adjustment valid? **Public Counsel takes no position at this time.**
18. Comparison of O&M Expenses: Should the Commission investigate the reasonableness of the increases in operations and maintenance expense in Account 909? **Public Counsel takes no position at this time.**
19. Forfeited Discount Revenue: What is the appropriate level of Forfeited Discount Revenue that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
20. Merger Transition Costs:
  - a. Has the Company satisfied its commitment to only seek recovery of transition costs if its synergy tracker indicates overall savings equal to or greater than level of transition costs sought to be included in rates? **Public Counsel takes no position at this time.**
  - b. What is the appropriate level of merger transition costs that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
21. Rate Case Expenses: What is the appropriate amount of rate case expense that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel believes that ratepayers should not be required to pay for rate case expense that is incurred primarily for the benefit of the stockholders.**
22. What is the appropriate level of non-labor Production, Transmission, and Distribution Maintenance expenses that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**
23. What is the appropriate amount of Flow Accelerated Corrosion compliance costs that should be included in KCPL's revenue requirement for setting KCPL's rates? **Public Counsel takes no position at this time.**

## JURISDICTIONAL ALLOCATIONS:

1. Allocation Methodology:
  - a. What method should be used for allocating KCPL's fixed production and transmission plant and expense between the Missouri, Kansas and FERC jurisdictions? **Public Counsel takes no position at this time.**
  - b. What methodology should be used for allocating KCPL's environmental control plant and expense between the Missouri, Kansas and FERC jurisdictions? **Public Counsel takes no position at this time.**
  - c. What methodology should be used for allocating KCPL's off-system sales margins between the Missouri, Kansas and FERC jurisdictions? **Public Counsel takes no position at this time.**
  - d. What methodology should be used for allocating KCPL's steam plant non-labor boiler maintenance expense between the Missouri, Kansas and FERC jurisdictions? **Public Counsel takes no position at this time.**

## RATE DESIGN/TIMING OF NEXT CLASS COST OF SERVICE STUDY

1. All Electric/Space Heating for General Service:
  - a. Should the general service all-electric winter energy rates be increased by 10% before applying the equal percentage increase allocated to the class as a whole? **No. Any increase in revenue requirement should be implemented on an equal percentage basis consistent with the Stipulation from Case No. EO-2005-0329. Even if the Commission determines that rate design changes should result from this case Public Counsel opposes increasing the general service all-electric winter energy rates by 10% because the proposal would result in certain energy block rates exceeding the corresponding general service rate.**
  - b. Should the general service separately-metered space heating classes' winter energy rate and the service charge be increased by 5% before applying the equal percentage increase allocated to the class as a whole? **No. Any increase in revenue requirement should be implemented on an equal percentage basis consistent with the Stipulation from Case No. EO-2005-0329. If despite Public Counsel's position the Commission determines that rate design changes should result from this case Public Counsel would not oppose the Company proposal to increase the separately-metered space heating rates winter energy charges to the Small General Service, Medium General Service and Large General Service tariff by 5% provided that an offsetting reduction is made to other rates paid by the same customer class.**
  - c. Should those frozen general Service All-Electric and separately-metered space heating rate schedules currently serving no customers be eliminated? **Public Counsel does not oppose eliminating the frozen general Service All-Electric and separately-metered space heating rate schedules currently serving no customers.**

2. Large Power Rate Design: Should the proposal of the Industrials to adjust Rate LP by increasing the middle energy blocks by one-half of the system average percentage increase, maintaining the third energy blocks at their current levels, and applying an equal percent increase to all other charges, be adopted? **No. Any increase in revenue requirement should be implemented on an equal percentage basis consistent with the Stipulation from Case No. EO-2005-0329. Even if the Commission determines that rate design changes should result from this case the Industrials' proposal to adjust Large Power rates by disproportionately increasing the early energy blocks and fixed charges should be rejected based on the potential for significant bill impacts and rate switching.**
  
3. Timing of Future Class Cost of Service Study: Should the Commission order KCPL to perform a Class Cost of Service Study as a part of the next rate case or after the next rate case? **Public Counsel takes no position at this time.**

**REGULATORY AMORTIZATIONS**

1. What is the appropriate level of amortization (True-up Issue)? **Public Counsel takes no position at this time.**

*The following issue was not addresses by Staff:*

1. OPC position regarding KCPL's proposed Supplemental Weatherization and Minor Home Repair Program

Public Counsel opposes this proposed program at this time: (1) because the proposal is lacking in sufficient detail (e.g. proposed tariff) and (2) because Public Counsel believes additional **utility** funding of low income weatherization programs may not be needed at the same time that we have experienced an enormous increase in **federal** weatherization funding due to passage of the federal economic stimulus program.

WHEREFORE, Public Counsel respectfully requests submits its Statement of Position.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ Lewis R. Mills, Jr.**

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed to all parties this 15<sup>th</sup> day of April 2009.

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