

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)	
Kansas City Power & Light Company)	
for the Opening of a Proceeding to)	EO-2008-0224
File Status Report on Wind Invest-)	
ments)	

COMMENTS OF PRAXAIR, INC.

COMES NOW Praxair, Inc. ("Praxair") and, pursuant to Commission Order herein respectfully comments on the submitted Status Report by Kansas City Power & Light Co. ("KCPL") as follows:

1. Praxair was a signatory to the Stipulation in Case No. ER-2005-0329 ("Stipulation"), that being the Kansas City Power & Light Co. ("KCPL") Regulatory Plan. The instant filing by KCPL was made on January 4, 2008 to file a Status Report on Wind Investments that would otherwise have been included in KCPL's 2008 rate case under the Regulatory Plan.

2. KCPL's application herein seeks "to inform the Commission and other interested parties that KCPL does not intend to complete the substantial investment in 100 MW of wind generation in 2008."^{1/} KCPL does not appear to seek Commission approval of any aspect of its decision, nor agreement by the parties to the Stipulation. Rather, KCPL reports the decision as a extant fact.

^{1/} Application, pp. 3-4.

3. In paragraph III.B.1.o of the Stipulation, the following commitment is accepted by KCPL:

If KCPL determines that its Resource Plan should be modified because changed factors or circumstances have impacted the reasonableness and adequacy of the resource plan, then it shall notify all Signatory Parties in writing within forty-five (45) days of any such determination. In its notification, KCPL shall: (1) explain the reason(s) (e.g., changed circumstances) for the proposed change in the Resource Plan; (2) specify the new proposed Resource Plan; (3) provide a description of the alternatives that it evaluated and the process that it went through in choosing the new proposed Resource Plan; and (4) provide detailed workpapers that support the evaluation and the process whereby a new proposed Resource Plan was chosen.

4. Representatives of Praxair have received no such notice. Inquiry of some of the other parties to the Stipulation indicates that none of them have received any such notice from KCPL.

5. This adjustment or modification to the Regulatory Plan should be dealt with through the process agreed upon by the parties to the Stipulation, rather than by filing a "Status Report," or by some other means that avoids that process. The process specified by the Stipulation also involves a 30-day response time by the other parties to the Stipulation and a provision for the matter to be brought to the Commission within 90 days if the parties are unable to resolve the matter among themselves.

6. It is acknowledged that in its initial filing in this matter Praxair indicated that it did not at that time object to the initiation of this case. Upon further investigation, it appears incorrect for KCPL to seek a modification (if that is what KCPL in fact seeks) to the Regulatory Plan through this means rather than through the means established in the Stipulation that established the Regulatory Plan. Indeed, the Stipulation set up a mechanism to address such changes and that process should be followed rather than by a series of separate case filings each requiring separate interventions, investigations and the like, and possibly involving parties different than those that accepted the Stipulation.

7. Praxair is concerned whether a unilateral decision by KCPL as to a specific piece of what should be a comprehensive overall Regulatory Plan necessarily calls into question the entirety of the Plan. The drafters of the Stipulation were careful to require that the Stipulation was to be taken as a whole. Its explicit text did not allow the Commission to "cherry pick" the Stipulation by accepting parts and rejecting other parts. Rather, the Commission was constrained to accept the negotiated package or reject it as a whole. This would seem to preclude one party to the Stipulation, KCPL, from simply choosing to disregard one part of the Stipulation and avoid the agreed-upon review by submitting a "status report" and making some uncertain request for relief from the Commission. This action

causes concern with respect to the integrity of the overall plan and other components of it. If compliance with the agreed terms of the Stipulation has now become financially infeasible, a mechanism to deal with that was provided. Perhaps the other parties, through the agreed upon mechanism, should be allowed to reassess the other features of the Stipulation.

8. Given that the required initial notice does not appear to have been given by KCPL in the form required by the Stipulation, the other parties are not yet obliged to respond to that notice and this matter appears not ripe for Commission handling in its present form.^{2/} KCPL should be directed to comply with the terms of the Stipulation.

WHEREFORE Praxair prays that these comments be received.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR PRAXAIR, INC.

^{2/} Although KCPL identified its filing as an "Application," it is unclear what relief is sought other than the filing of a status report.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means, by United States Mail, First Class postage prepaid, or by hand delivery to all known parties in interest upon their respective representatives or attorneys of record as reflected in the records maintained by the Secretary of the Commission through the EFIS system.



Stuart W. Conrad

Dated: February 19, 2008