BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Proposed Rule 4 CSR 240-20.100, Electric Utility Renewable Energy Standard Requirements	))))	Case No. EX-2010-0169

COMMENTS OF KANSAS CITY POWER & LIGHT COMPANYAND
KCP&L GREATER MISSOURI OPERATIONS COMPANY
TO PROPOSED RENEWABLE ENERGY STANDARD RULES

Kansas City Power & Light Company ("KCP&L") and KCP&L Greater Missouri Operations Company ("GMO") (collectively, the "Companies") hereby submits comments in response to the Proposed Rules published in the Missouri Register on February 16, 2010. The Missouri Public Service Commission ("Commission" or "PSC") proposes 4 CSR 240-20.100, Electric Utility Renewable Energy Standard Requirements ("RES Rule"). The Companies respectfully request that the Commission consider these comments prior to taking further steps to finalize the rules.

General Comments

1. KCP&L has long been a supporter of the Renewable Energy Standard (RES) initiative, endorsing the ballot initiative led by Missourians for Cleaner Cheaper Energy and then overwhelmingly passed by Missouri voters on November 4, 2008. Similarly, The Companies have been an active participant in the RES rulemaking effort. Company representatives have participated in the workshops and working sessions occurring throughout 2009. Further, the Companies have worked with the other electric utilities and advocates of renewable energy to find points of common interest.

Through those earlier efforts, and now, through the formal rulemaking process, the Companies are interested in establishing a workable rule that advances the desires of the state's citizens for renewable energy, complements the efforts of state electric utilities to meet the energy demands of those citizens, and provides the Commission the tools needed to ensure those efforts are prudent and in the best interests of all stakeholders.

2. From the ballot initiative approved by voters, through the state law, and now with the rulemaking effort, every version of the language instructs electric utilities to invest in renewable energy resources establishing minimum amounts to be met over the next ten years. The Companies wish to emphasize to the Commission that the RES Rule should be considered as a baseline for renewable energy investment, and the Commission should remain open to additional, prudent investment where the situation dictates.

The Companies have proposed language for paragraph 2 of the rule that clearly allows for the prudent implementation and cost recovery of renewable resource acquisition strategies developed through the Integrated Resource Planning or other prudent processes but in some cases where the resources or timing of the resource acquisition may not directly coincide with a RES compliance plan. It is increasingly likely that some renewable energy resource alternatives will represent the least cost alternative considered in resource planning effort taking into account the costs of future environmental compliance. As such, those resources should be implemented even if RES Rule compliance is not an immediate requirement. Further, the Companies believe that the Renewable Energy Credits (RECs) produced by a renewable energy resource should be eligible for RES Rule compliance, regardless of whether the resources were implemented as part of a utility's RES compliance plan. These suggestions will help ensure that all prudent investment in renewable generation resources occurs and is recognized for the benefit provided.

3. The Published rule contains specific requirements regarding the analysis of the rate impact cap. These requirements are inconsistent and offer opportunities for interpretation. The rule requires the rate impact cap be considered in the context of a rate increase request, but the analysis is to be performed on a prospective basis. To overcome this inconsistency and the potential for various interpretations, the Companies have recommended language to be included in Paragraphs (1)(I) and (7)(B) of the draft rule that allows the utility to seek a determination from the Commission of the appropriateness of a renewable energy resource prior to committing to construct or enter into a contract for that resource.

4. The published rule contains language that requires RECs used for compliance with the RES Rule, to be bundled with the energy from a renewable resource and that the energy must be delivered to Missouri customers. The Companies are concerned that this requirement appears in conflict with the statute and creates unintended consequences. First, bundling a REC with its underlying energy component will eliminate all opportunity to utilize a REC independently to satisfy compliance with the RES Rule. Some parties to the rulemaking process have interpreted section 393.1030 of the statute to require this linkage. Specifically, from paragraph 1, "Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:" and "The portfolio requirements shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state." This interpretation stands in bright contrast to a subsequent portion of section 393.1030 that states, "A utility may comply with the standard ***in whole or in part by purchasing RECs.***" (emphasis added) The Companies firmly believe that this section of the statute is intended to allow a utility to comply with the RES rule

by purchasing only RECs. Any interpretation linking the REC to energy would severely impact any effort to comply "in whole" with the RES Rule. Maintaining compliance with the RES Rule will require the electric utility to balance "steel in the ground" projects with financial instruments, specifically RECs. Given the lead time for construction projects and the likelihood of external influences like a national RES requirement, maintaining an independent REC market will allow utilities to manage the periods between large projects and to manage the impacts on customer cost due to market volatility of renewable project development and component costs. Bundling the REC to energy will limit the ability for a utility to manage volatile renewable market conditions and will reduce the number of competitive alternatives electric utilities have for meeting compliance with the RES Rule. Reducing the alternatives available for compliance can lead to higher costs for customers or alternately, less renewable energy utilized if the 1% cap is met sooner.

Secondly, if energy produced from a renewable resource is required to be delivered to Missouri customers, an electric utility would only be able to qualify those facilities that have direct firm transmission service to the utility's control area. This would greatly limit the pool of available alternatives for meeting the RES Rule and require significant effort to verify and document the energy delivery, complicating the efforts of electric utilities operating in multiple jurisdictions to manage their REC inventory.

Review of RES attributes around the country shows similar support for unbundling of RECs. A 2007 survey of the states revealed that 17 states have RECs unbundled from the energy[1]. Further, California recently moved to allow the use of unbundled RECs for RES

[1] The Treatment of Renewable Energy Certificates, Emissions Allowances, and Green Power Programs in State Renewables Portfolio Standards by Edward A. Holt and Ryan H. Wiser (http://eetd.lbl.gov/ea/emp/reports/62574.pdf)

compliance[2]. Citing inflexibility, issues with transmission constraints, and high transaction costs with the prior bundled requirement, the California Commission reversed their stance toward unbundled RECs.

During the workshop process the Companies advocated the use of a regional limit to compromise the desire of other parties for Missouri-based resources while balancing the economic benefits available in the entire region. While the Companies believe the rules clearly allow for the sourcing of RECs at a national level, the Companies also support a compromise that would require that RECs or S-RECs utilized for compliance with this rule to be generated from a renewable energy resource located within the geographic boundaries of the state of Missouri and/or within the boundaries of the independent transmission system operators (ISO) or regional transmission organizations associated with Missouri electric utilities. So, for example, with the current ISOs serving Missouri electric utilities, the Companies would have, for the purpose of complying with this rule, the ability to purchase energy or RECs, produced from an eligible renewable resource located anywhere in the footprint of the Southwest Power Pool (SPP), the Midwest Independent System Operator (MISO) or any other location within the boundaries of the State of Missouri. The Companies believe such a compromise would still allow for a large number of competitive renewable alternatives to be available to minimize customer costs, and that a focused effort toward fostering renewable development in this region will allow for the opportunity for greater economic development for Missouri's manufacturers and businesses serving the renewable energy industry.

5. Paragraph 2(G) in the Requirements section of the draft rule includes language requires the electric utility to audit the renewable resource acquisition process. The Companies feel

[2] California Public Utilities Commission Rulemaking 06-02-012 (http://docs.cpuc.ca.gov/PUBLISHED/GRAPHICS/114754.PDF)

strongly that this language is redundant with current practice and establishes a detrimental requirement on renewable energy resources not shared by any other energy resource deployed by the electric utility. Typically the ownership of energy resources is evaluated by the Commission Staff through prudency reviews and compliance with in-service criteria. The long standing powers established in Section 393.140 and Section 393.135 of the Missouri Revised Statutes are more than adequate to monitor the acquisition process.

During the rulemaking workshops this situation was acknowledged and language was added to allow the Commission Staff to serve as the independent auditor for this part of the rule. The Companies realize this conciliatory language achieves the goal of involving Staff. However, leaving the audit requirements in the rule may have unintended consequences if Staff is unable or unwilling to perform the role of the independent auditor. The Companies propose that the entire paragraph be removed from the rule.

6. As part of the approved Solar Photovoltaic Rebate Program tariffs, the Companies introduced the concept of calculating the solar electric system wattage using an alternating current (AC) method based on California Energy Commission (CEC) standards instead of the direct current (DC) method as some have recommended be included in the RES Rule. The CEC-AC method provides two major benefits to the utility and the ratepayer. First, calculating the solar rebate based on the CEC-AC method insures that payments are only made for energy delivered to the electric system. Solar systems generate DC electricity that must be inverted to AC to be supplied back to the electric system. This conversion results in energy losses, typically around 5%. The CEC-AC method adjusts the solar system wattage and the related rebate to account for these losses and more closely represents the energy that gets delivered to our customers.

The second benefit associated with the use of the CEC-AC or similar method is to ensure the use of quality solar components. In order to calculate the CEC-AC rating, the primary system components, the photovoltaic modules and inverters, must be subjected to standardized testing to establish the respective component ratings. Standardized testing ensures that the primary system components meet applicable Underwriters Laboratories standards and are evaluated under realistic test conditions. Many vendors state their component performance using standard test conditions which equate to laboratory conditions. The CEC evaluates components under practical test conditions which more closely represent the conditions expected in the field.

In total the CEC-AC method provides a better measure of a solar installation's capabilities as it considers two of the major loss factors that affect solar system performance in operation, environmental conditions and inverter efficiency. CEC-AC ratings are commonly used in the solar industry, are updated monthly and available online, and would help ensure ratepayers receive real benefit for the monies paid through the solar rebate.

7. The Companies recognize that it is important to support customers who want to participate in renewable generation however, the Companies are concerned that requiring electric utilities to present a Standard Offer Contract as opposed to an electric utility having the discretion to present a Standard Offer Contract could result the inefficient purchase of S-RECs and could result in increased costs for compliance with the RES Rule. It should be pointed out that the requirement of a Standard Offer Contract for solar RECs (S-REC) noted in paragraph 4(H) does not appear in the requirements of the statute. In order for the electric utility to make the most economical use of its financial resources, and the most prudent resource choices for its customers, the electric utility must have the option, not the obligation to obtain S-RECs through a Standard Offer Contract. Otherwise, the electric utility may be forced to commit to long term

contracts to purchase S-RECs at prices that may be above the prevailing market price. The Companies support allowing the electric utilities, at their discretion, to use Standard Offer Contracts to purchase S-RECs at the time of installation believing the Standard Offer Contract would play a significant role in the promotion of solar installations and helping the electric utility obtain its needed solar compliance levels. The Companies have proposed significant changes to the language to allow for different payment terms depending on the solar system size. The various terms will help balance the customer's interest for revenue certainty to help justify the cost of a solar installation while providing the electric utility the mechanisms to execute a prudent procurement of S-RECs. In our proposal, systems will fall into three ranges, each with a different contracting requirement. For solar systems smaller than three (3) kW, if the electric utility chose to make the standard offer and a customer chose to sell his S-RECs, the utility would purchase a calculated amount of S-RECs to be produced over a five (5) year period through a one time lump sum standard offer payment. Such standard offer would be defined in the electric utility's tariff for providing the solar rebate. For solar systems between three (3) kW and ten (10) kW, the electric utility could purchase at its discretion and upon the customer's willingness to sell, the S-RECs either through a one-time lump sum standard offer payment or could arrange for annual payments. Finally, for solar systems larger than ten (10) kW, the electric utility could purchase at its discretion and upon the customer's willingness to sell, S-RECs only through annual payments.

Again, the Companies recognize that it is important to support customers who want to participate in renewable generation. Having a standard offer could provide a clear understanding of S-REC price for smaller retail customer applications and simplifies the administration for those types of systems, but with the uncertainty of what future S-REC prices will be, it would be

detrimental to customers to require utilities to risk paying a higher, standard offer price associated with larger, long duration projects. The changes suggested will provide flexibility while providing customer-owners with the prudent revenue support they need to justify the initial installation costs.

8. The Companies are aware of the various interpretations of section 393.1030(1) and section 393.1045 with regard to rate increase limits associated with RES Rule compliance. Further, the Companies are sensitive to the differences each interpretation could have on the ultimate deployment of renewable energy in the state. Dating back to 2005, when KCP&L completed its Comprehensive Energy Plan, consumer demand for cleaner, renewable energy has been consistently clear. More current and directly associated with the Proposition C effort, initiative supporters claimed that generating more electricity from renewables will mean more jobs, a stronger economy, and cleaner air and water for generations of Missourians to come. Corporately we believe supporting investments in clean energy sources will help achieve regional energy sustainability.

Regardless of the uncertainties of the statute, the Companies support the effort of Commission Staff to draft a reasonable and workable rule. To that point, the Companies support the language offered in the draft rule with only some minor clarifications to paragraph 5 and 6. The Companies believe the minor changes help to clearly define how to apply the retail rate impact test to proposed renewable generation projects and result in a practical process to evaluate the cost of RES compliance.

In addition, the Companies must reiterate our position detailed in paragraph 2 of this response. We believe the purpose of the RES Rule is to establish a baseline for renewable energy investment and set parameters for that compliance. Nothing in the RES Rule should

preclude an electric utility from making prudent investments in renewable energy resources that exceed the portfolio requirements of the RES Rule or the prudent implementation of any resource acquisition strategy developed in compliance to the Chapter 22 Resource Planning efforts. The Commission should remain open to additional, prudent investment in renewable energy resources where the situation dictates.

9. The cost recovery and pass-through of benefits section of the RES Rule is, according to the statute, primarily structured to be an interim recovery mechanism. Multiple pages of the rule are dedicated to outlining the mechanics of the Renewable Energy Standard Rate Adjustment Mechanism (RESRAM). The Companies would like to emphasize that while the RESRAM is the most likely mechanism to be used for recovery, it is not the only recovery mechanism available to the electric utility. Starting in section 6 of the RES Rule, The Companies have included language that clarifies how an electric utility may choose to recover RES compliance costs through rates established in a general rate proceeding. In the interim period between general rate proceedings, the Companies are proposing that RES compliance costs be deferred in a regulatory asset, and allowed to annually calculate AFUDC on the balance in that regulatory asset. The prudently-incurred costs included in the regulatory asset balance would be amortized over a six (6) year period. The Companies contemplate that utilities should have two defined paths toward recovery in the RES Rule and can evaluate and select the path best suited to their respective situation; recovery through the RESRAM and its associated requirements or through a general rate proceeding.

Detailed Comments and recommendations to clarify the language of the following sections of the proposed RES Rule

10. Comment: In mid-December 2009, the Missouri Public Service Commission announced it had selected APX, Inc. to provide an electronic REC management system for RES Rule

compliance. It was reported that the system will allow for origination, certification, tracking, transfer, and retirement of RECs. In the Companies' evaluation of the RES Rule, the role of the APX system has not been acknowledged.

Recommendation: The Companies propose the addition of specific language in paragraph (1)(J), paragraph (3)(A), paragraph (3)(G), and paragraph (7)(A)(1)(I) of the RES Rule to address the use of the APX system. .

11. Comment: Paragraph (1)(S) of the RES Rule, the definition of Standard Test Condition, is not needed as the term is not referenced in the subsequent portions of the rule. Further, the CEC-AC method proposed by the Companies is based on Practical Test Conditions, a different standard.

Recommendation: The Companies recommend that the Commission strike the paragraph.

12. Comment: Paragraph (4)(B) of the RES Rule states that solar electric systems must be situated such that at least 85% of the resource is available to the system. The Companies are concerned that this requirement is unclear as to the party responsible for measuring the availability.

Recommendation: The Companies recommend that the Commission add language to the paragraph making the customer responsible for the measurement. It would be preferred to have the Installer responsible as they have the required skills to complete the measurement, but the RES Rule does not define or speak to the Installer. By extension, the Customer is the next suitable party.

13. Comment: Paragraph (4)(K) of the RES Rule states that the electric utility shall provide the solar rebate payment within thirty (30) days of verification. The Companies are concerned that this time period will be too short.

Recommendation: The Companies recommend that the Commission set the payment period to sixty (60) days. Based on our experiences with the solar rebate since January 1, 2010, we have discovered that additional time is required to establish the payment and synchronize the payment with the billing process.

14. Comment: Paragraph (6)(A)(26) of the RES Rule establishes prudence reviews respecting a RESRAM. In review of this provision, The Companies are concerned that the RES Rule does not preclude the Commission Staff from conducting multiple reviews of the same electric utility at the same time.

Recommendation: The Companies recommend that the Commission add language to the paragraph requiring that a final order be issued on an existing prudence review before a subsequent review may be initiated.

15. Comment: Paragraph (6)(C)(1) of the RES Rule establishes a timeline for the Commission to act on an electric utilities' application and rate schedules. The Companies are concerned that there is no time limit for Commission action.

Recommendation: The Companies recommend that the Commission add language to the paragraph requiring action on the application and rate schedules within 45 days of the electric utilities reply to intervener's comments.

16. Comment: Paragraph (7)(B)(1)(G) of the RES Rule requires verification that RECs purchased by the electric utility for compliance purposes did not cause adverse environmental impacts. The Companies recognize this requirement is directly from the

statute and will be addressed by rules of the Department of Natural Resources (DNR), currently proposed under Division 140. Division of Energy, Chapter 8 - Certification of Renewable Energy and Renewable Energy Standard Compliance Fund. The Companies have interest in ensuring the processes established will achieve the desired protections without imposing an undue burden on the generation facility operator.

Recommendation: Given the requirement will be met by DNR rulemaking, the duplicative language should be removed from this section.

17. Comment: Paragraph (8)(B)(2) of the RES Rule establishes that the Department of Natural Resources (DNR) shall receive any excess penalty payments to fund renewable energy and energy efficiency projects. The Companies are interested in this investment and believes others would like to be updated on these efforts.

Recommendation: The Companies recommend that the Commission add a sub-paragraph to this portion of the rule requiring the DNR to file an annual report on utilization of penalty funds. It would be useful if the report tracked the funds received and provided a summary of the purpose of the projects.

18. The Companies have included a redline copy of the proposed rule as Attachment A to this response. All of the comments and recommendations discussed above are included in this attachment. Further, The Companies have included a number of small changes we believe will clarify and improve certain language in the rule.

Conclusion

The Companies respectfully request that the Commission consider the foregoing comments when finalizing the proposed Electric Utility Renewable Energy Standard Requirements Rule. Please do not hesitate to contact the undersigned with any comments or concerns.

Respectfully submitted

/s/ Victoria Schatz

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Appendix A: Proposed changes to 4 CSR 240-20.100, Electric Utility Renewable Energy Standard Requirements Rules (Redline version)

Dated: April 5, 2010

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application was served on all counsel of record either by electronic mail or by first class mail, postage prepaid, on this 5th day of April, 2010.

/s/ Victoria Schatz
Victoria Schatz