

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 17th day  
of January, 2008.

In the Matter of the Joint Application of Great Plains	)	
Energy Incorporated, Kansas City Power & Light	)	
Company, and Aquila, Inc., for Approval of the Merger	)	<b><u>Case No. EM-2007-0374</u></b>
of Aquila, Inc., with a Subsidiary of Great Plains	)	
Energy Incorporated and for Other Related Relief.	)	

**ORDER REGARDING MOTION FOR RECONSIDERATION OF  
THE ORDER REGARDING RESPONSES TO THE MOTION  
FOR PARTIAL SUMMARY DETERMINATION**

Issue Date: January 17, 2008

Effective Date: January 17, 2008

On December 5, 2007, AG Processing, Sedalia Industrial Energy Users' Association, and Praxair, Inc. (collectively referred to as "Praxair"), filed a Motion for Partial Summary Determination. Because the evidentiary hearing was currently proceeding, the Commission directed that any responses to the Motion for Partial Summary Determination be filed on an expedited basis no later than December 11, 2007.

During the fourth day of the evidentiary hearing, Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc. (collectively referred to as "the Applicants") requested that the evidentiary hearing be recessed so that the Applicants could present an "alternative proposal"<sup>1</sup> to the other parties. There was no objection to this request and the hearing was continued. Since an "alternative proposal"

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<sup>1</sup> Transcript, page 1154, Ins. 8-13.

was expected, the parties were excused from filing their responses to the motion for partial summary determination until further order of the Commission.<sup>2</sup>

On December 14, 2007, the Office of the Public Counsel filed a Motion for Reconsideration regarding the December 10, 2007 Order. Public Counsel argued that a Commission determination of the motion for partial summary determination could serve to narrow the issues and aid in the negotiations of the parties. Praxair joined in Public Counsel's motion. Both Public Counsel and Praxair recognized in their pleadings that it is unknown whether the additional regulatory amortizations, the subject of the motion for partial summary determination, will be included in the alternative proposal.

Great Plains and KCPL filed a response to the motion for reconsideration on December 26, 2007. Great Plains and KCPL indicated in their response that it was unknown if the regulatory amortizations would be in the alternative merger plan, and if so what form those amortizations might take. Thus, Great Plains and KCPL did not agree that a Commission decision on the motion for partial summary determination would provide guidance for the parties in settlement of the case.

The Staff of the Missouri Public Service Commission filed a response to the motion for reconsideration.<sup>3</sup> Staff did not take a position on the timing of a Commission's ruling on the motion for partial summary determination but instead set out the history of the type of amortizations which are the subject of that motion.

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<sup>2</sup> *Order Regarding Responses to Motion for Partial Summary Determination* issued on December 10, 2007 (December 10 Order).

<sup>3</sup> Staff also filed a motion for leave to late-file that response which shall be granted.

Since the continuance of the hearing, the Applicants have requested additional continuances of the dates for the filing of a further proposed procedural schedule. On January 15, 2008, the Applicants stated that an additional continuance until January 31, 2008, was necessary in order for settlement discussions to continue. The Applicants stated that they had circulated a “settlement proposal” to the other parties on January 10, 2008, and that additional time would be needed for the review of that proposal.

After reviewing the motion for reconsideration and the responses thereto, the Commission determines that the motion should be denied. The parties are currently involved in active settlement negotiations and it is uncertain whether the final merger plan that comes before the Commission for decision will include the additional regulatory amortizations. Thus, it is not a useful exercise for the parties or the Commission to spend the time and resources necessary to debate and decide an issue which may be moot.

The Commission will direct, however, that the Applicants take some action to resolve this case in a timely fashion. The Commission shall direct the Applicants to file a proposed procedural schedule on January 31, 2008, which includes, at a minimum, the date on which it intends to file a new proposed merger plan and/or a settlement agreement and a proposed procedural schedule for that plan or agreement, or the date on which the Applicants are prepared to resume the hearing on the original merger plan.

**IT IS ORDERED THAT:**

1. The Staff of the Missouri Public Service Commission is granted leave to file its Staff Response to Public Counsel’s Motion for Reconsideration out of time.
2. The Motion for Reconsideration filed by the Office of the Public Counsel on December 14, 2007, is denied.

3. Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc., shall file a proposed procedural schedule, including the date on which they shall file a new proposed merger plan and/or a settlement agreement or the date on which they are prepared to resume the hearing on the original merger plan, no later than January 31, 2008.

4. This order shall become effective on January 17, 2008.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is positioned above the printed name and title.

Colleen M. Dale  
Secretary

( S E A L )

Murray, Appling, and Jarrett, CC., concur.  
Clayton, C., dissents, with separate  
dissenting opinion to follow.  
Davis, Chm., not participating.

Dippell, Deputy Chief Regulatory Law Judge