

**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)	Case No. ER-2007-0291
Certain Changes in its Charges for Electric)	
Service to Implement its Regulatory Plan)	

**MOTION TO STAY EFFECTIVENESS OF RATES
AND
MOTION FOR EXPEDITED TREATMENT**

COMES NOW, Praxair, Inc., pursuant to Section 386.500 RSMo., and for its Motion to Stay Effectiveness of Rates respectfully states as follow:

1. On December 21, 2007, the Commission issued its Order Approving Tariffs in Compliance with Commission Report and Order (“Order”). As reflected in the Application for Rehearing, filed simultaneous with this Motion, that Order, as well as the procedure utilized by this Commission in issuing that Order, has been riddled with numerous instances of reversible error. As more fully reflected in that Application for Rehearing, the Commission’s Order denied parties’ due process rights and is otherwise unlawful, arbitrary, capricious, unreasonable and unsupported by competent and substantial evidence on the whole record of the proceeding.

2. Section 386.500.3 RSMo. provides the Commission with authority to stay its decision pending rehearing of the Order. Given the numerous instances of reversible error in the Order and the Commission’s procedure in issuing that Order, the Commission’s duty to protect the public necessitates that the Commission stay its decision to allow it the opportunity to correct these errors. As noted by the Commission in its Report and Order, “the dominant thought and purpose of the policy is the protection

of the public. . . [and] the protection given the utility is merely incidental.”¹ Without the issuance of a stay, ratepayers of all classes may be forced to pay for needed services at increased rates without the opportunity to recover those additional costs should the Commission properly alter its decision.

3. Praxair anticipates that KCPL will argue that any stay will harm its shareholders and deny it the rate *increase* that it “deserves” and to which it is “entitled.” KCPL will not be precluded from continuing to be well-compensated for its services. However, these parties and the public will be forced to pay excessive rates that are unlawful and may have no recourse in so doing save to engage in self-help. On balance, the equities in such circumstance are with the customers who turn to the Commission to protect them from a monopoly service provider for whose services they have no alternative. Indeed, KCPL would *not* be deprived of all revenue but only that additional portion that results from the unjust, unreasonable and unlawful order of the Commission.

4. 4 CSR 240-2.180(16) provides clear direction for a party to request Expedited Treatment of such a Motion for Stay. Pursuant to the direction contained in the Commission Rule, Praxair states that it requests that the Commission act by January 1, 2008 to prevent unjustified forced collections from ratepayers. Furthermore, this document was filed as soon as possible given that it was filed prior to the effective date of the Commission’s Order.

5. As explained in Paragraph 3, granting this Motion on an expedited basis will avoid harm to KCPL’s ratepayers by precluding KCPL from collecting unreasonable rates until such time as the Commission has an opportunity to review the pending

¹ *State ex rel. Crown Coach Co. v. Public Service Commission*, 179 S.W.2d 123, 126 (1944).

Applications for Rehearing and taking steps to correct the instances of reversible error detailed in that Application.

WHEREFORE, Praxair respectfully requests that the Commission issue its Order staying the effectiveness of the Order Approving Tariffs in Compliance with Commission Report and Order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David L. Woodsmall". The signature is fluid and cursive, with the first name "David" being more prominent.

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ATTORNEYS FOR PRAXAIR, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

A handwritten signature in black ink, appearing to read "David L. Woodsmall". The signature is stylized with a large, circular initial "D" and a long, sweeping horizontal stroke at the end.

David L. Woodsmall

Dated: December 31, 2007