

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas)	
City Power & Light Company for Approval)	<u>Case No. ER-2007-0291</u>
to Make Certain Changes in Its Charges)	
for Electric Service to Implement Its)	
Regulatory Plan)	

**CONCURRING OPINION OF CHAIRMAN JEFF DAVIS WITH REGARD
TO MOTIONS FOR REHEARING AND REQUEST FOR CLARIFICATION**

This commissioner concurs with all respects of the order and in the interest of achieving certain finality in this matter files this brief concurrence to offer two further points in support of the Commission's decision in this matter.

First, with respect to the hypothetical capital structure argued for by OPC in this matter, I follow the exact same reasoning used by OPC and other parties successfully in the 2004 MGE rate case, Case No. GR-2004-0209. On page 1 of its reply brief filed on August 17, 2004, OPC noted the consolidated capital structure was the most appropriate to use in that case because it is the capital structure that is recognized in the investment community and the company conducts business, finances its operations and raises capital based on that capital structure. In further support of it's position, OPC cites the case of City of Lynchburg et. Al v. Chesapeake and Potomac Telephone Company of Virginia, 107 S.E.2d 462, 472 (Va. 1959):

It is only when it is made clear by the evidence that the officers and directors are following a policy in this regard which unreasonably favors the stockholders at the expense of the consumers that the rate-making tribunal should substitute a capital structure radically different from one fashioned by the officers and directors of the corporation.

There is no evidence in this case that the directors and officers were attempting to "unreasonably favor stockholders at the expense of consumers." OPC does point out that KCP&L could have issued approximately \$100 million worth of debt instead of hybrid equity; however, given the circumstances that KCP&L is trying to obtain the cash flow necessary to maintain its credit rating during a construction phase and issuing new stock to finance that construction is part of the plan, KCP&L's conduct is reasonable under the circumstances.

Finally, and most important, decisions by other regulatory bodies don't necessarily constitute competent and substantial evidence on which this Commission should base its decision; however, the decision of the Kansas Corporation Commission in a companion KCP&L rate case is instructive. In that case, all of the parties in that case either agreed or did not object to a settlement providing KCP&L with a \$28 million rate increase. The Kansas Corporations Commission, a majority of whom are democrats, approved that settlement and it is important to note that KCP&L's Missouri territory is larger in terms of both ~~jurisdiction~~ ^{customers and} and load. Their decision only provides further evidence that the Commission acted appropriately in this case and the efforts of people who say otherwise are misplaced.

Respectfully submitted,



Jeff Davis
Chairman

Dated at Jefferson City, Missouri,
on this 21st day of December, 2007.