

**BEFORE THE PUBLIC SERVICE  
COMMISSION OF THE STATE OF MISSOURI**

|                                    |   |                                  |
|------------------------------------|---|----------------------------------|
| Earth Island Institute d/b/a       | ) |                                  |
| Renew Missouri, et al.,            | ) |                                  |
|                                    | ) |                                  |
| Complainants,                      | ) |                                  |
|                                    | ) |                                  |
| v.                                 | ) | Case No. EC-2013-0379            |
|                                    | ) | [consolidated with EC-2013-0380] |
|                                    | ) |                                  |
| Kansas City Power & Light Company, | ) |                                  |
|                                    | ) |                                  |
| Respondent.                        | ) |                                  |

**MOTION FOR SUMMARY DISPOSITION AND LEGAL MEMORANDUM OF  
KANSAS CITY POWER & LIGHT COMPANY AND  
KCP&L GREATER MISSOURI OPERATIONS COMPANY**

COMES NOW Kansas City Power & Light Company (“KCP&L”) and KCP&L Greater Missouri Operations Company (“GMO”) (collectively “Companies”) for their Motion for Summary Disposition, pursuant to the Commission’s *Order Adopting Procedural Schedule* issued on April 9, 2013, and 4 CSR 240-2.117, respectfully move for an order granting summary disposition in their favor, and dismissing with prejudice the Complaints filed in this case by Earth Island Institute d/b/a Renew Missouri (Renew Missouri), the Missouri Coalition for the Environment, the Missouri Solar Energy Industries Association, Wind on the Wires, the Alternative Energy Company, StraightUp Solar and Missouri Solar Applications, LLC (collectively, “Complainants”). In support of its Motion, the Companies state as follows:

**I. Background**

1. Complainants filed these Complaints almost two years after KCP&L and GMO filed their respective Renewable Energy Standard (“RES”) Compliance Plan for 2011-2013. The Complaints allege that KCP&L and GMO are not in compliance with the RES statute.

2. On April 9, 2013, the Commission issued its *Order Adopting Procedural Schedule* which directed, *inter alia*, that dispositive motions be filed no later than August 23, 2013. The Companies are filing this motion, pursuant to the Commission's Order.

## **II. Standard of Review**

3. Under 4 CSR 240-2.117(E), the standard for approval of the Companies' Motion For Summary Disposition requires a showing that (1) there is no genuine issue as to any material fact, (2) that the moving party is entitled to relief as a matter of law as to all or any part of the case, and (3) the Commission determines granting summary relief is in the public interest.<sup>1</sup> As will be shown herein, the Companies' Motion for Summary Disposition meets each of these elements and, consequently, the Commission should grant summary disposition in favor of the Companies and dismiss the Complaint against the Companies with prejudice.

4. The public interest clearly favors the quick and efficient resolution of this matter by summary disposition without an evidentiary hearing.<sup>2</sup> Since there is no genuine issue as to any material fact the time and cost to hold a hearing would be contrary to the public interest.

## **III. No Genuine Dispute As To Material Facts**

5. Pursuant to 4 CSR 240-2.117(1)(B), the Companies state that there is no genuine dispute as to the following material facts.

### **A. Material Facts**

1) The Companies are electrical corporations and public utilities within the meaning of §386.020 RSMo and engaged in the business of the manufacture, transmission and distribution of electricity subject to the regulatory jurisdiction of the

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<sup>1</sup> See, Commission rule 4 CSR 240-2.117(E).

<sup>2</sup> See, e.g., Determination on the Pleadings, *The Staff of the Missouri Public Service Comm'n v. Tanney County Utilities Corp.*, Case No. WC-2004-0342 (Oct. 19, 2004).

Commission as provided by law.<sup>3</sup>

2) Pursuant to its authority under §393.1030.2 RSMo, the Commission promulgated 4 CSR-240-20.100.<sup>4</sup>

3) The Companies filed their 2012 Annual Renewable Energy Standard Compliance Plans (“Plans”) with the Commission on or about April 11, 2012.<sup>5</sup>

4) The Commission docketed the filing of the Plans as Case No. EO-2012-0348 and EO-2012-0349.<sup>6</sup>

5) The planning interval covered by the Plans includes the years 2012, 2013 and 2014.<sup>7</sup>

6) Subsection (5)(B) of Commission rule 4 CSR 240-20.100 exempts an electrical corporation from making a detailed retail rate impact calculation and from including that calculation as part of its RES Compliance Plan filing if it does not propose to add incremental renewable energy resource generation directly attributable to RES compliance through the procurement or development of renewable energy resources.<sup>8</sup>

7) The Companies will meet the RES Compliance requirements for 2012, 2013 and 2014 with its current facilities. No new renewable generation attributable to RES compliance was planned for any of those years.<sup>9</sup>

8) The Companies do not propose to add incremental renewable energy resource generation attributable to RES compliance through the procurement or

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<sup>3</sup> EC-2013-0379 Complaint, ¶6; EC-2013-0379 Answer, ¶6. EC-2013-0380 Complaint, ¶6; EC-2013-0380 Answer, ¶6.

<sup>4</sup> EC-2013-0379 Complaint, ¶14; EC-2013-0379 Answer, ¶14. EC-2013-0380 Complaint, ¶14; EC-2013-0380 Answer, ¶14.

<sup>5</sup> See, Exhibit A attached hereto; Affidavit of Burton Crawford, ¶4 filed pursuant to 4 CSR 240-2.117(1)(A).

<sup>6</sup> EC-2013-0379 Complaint, ¶18; EC-2013-0379 Answer, ¶18. EC-2013-0380 Complaint, ¶18; EC-2013-0380 Answer, ¶18.

<sup>7</sup> Exhibit A, ¶4.

<sup>8</sup> 4 CSR 240-20.100(5)(B).

<sup>9</sup> Exhibit A, ¶4.

development of renewable energy resources during the planning interval covered by the Plan.<sup>10</sup>

#### IV. Legal Memorandum In Support of the Companies' Motion For Summary Disposition

6. The Complaints allege that Sections 5 and 7(B)(1) of 4 CSR 240-20.100 were not followed by the Companies. 4 CSR 240-20.100(5) is the provision that requires the 1% calculation of the retail rate impact and reads as follows:

(5) Retail Rate Impact.

(A) The retail rate impact, as calculated in subsection (5)(B), may not exceed one percent (1%) for prudent costs of renewable energy resources directly attributable to RES compliance. ***The retail rate impact shall be calculated on an incremental basis for each planning year that includes the addition of renewable generation directly attributable to RES compliance through procurement or development of renewable energy resources***, averaged over the succeeding ten (10)-year period, and shall exclude renewable energy resources owned or under contract prior to the effective date of this rule.

(B) . . . The comparison of the rate impact of renewable and non-renewable energy resources shall be conducted ***only when the electric utility proposes to add incremental renewable energy resource generation directly attributable to RES compliance through the procurement or development of renewable energy resources***. (emphasis added)

7. 4 CSR 240-20.100(7)(B)(1)(F) requires that an explanation of the calculation of the RES retail impact limit be provided by the utility.

F. A detailed explanation of the calculation of the RES retail impact limit calculated in accordance with section (5) of this rule. This explanation should include the pertinent information for the planning interval which is included in the RES compliance plan; and

8. As set out in Section (5)(A) of the rule, the rule requires the calculation of the 1% rate cap for each planning year that includes the addition of renewable generation directly attributable to RES compliance. If there is no retail rate impact calculation, then there is no

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<sup>10</sup> Exhibit A, ¶4.

explanation required in Section 7(B)(1)(F). In addition, Section (5)(B) states that the comparison of the rate impact of renewable and non-renewable energy resources shall be conducted only when the electric utility proposes to add incremental renewable energy resource generation directly attributable to RES compliance through the procurement or development of renewable energy resources. For the filing made April 16, 2012, the planning years are the three consecutive years 2012, 2013 and 2014. No new renewable generation attributable to RES compliance was planned for any of those years. Since no new renewable generation directly attributable to RES compliance was planned for any of those period years, no calculation or explanation of the calculation of the 1% retail rate cap was required by the rule. (See Affidavit of Burton Crawford attached as Exhibit A) These facts have not been controverted by the Complainants.

9. Based upon the foregoing, the Commission should find that there are no genuine issues of any material fact, that the Companies are entitled to relief as a matter of law, and that granting summary relief is in the public interest.

## **CONCLUSION**

**WHEREFORE**, for the reason stated above, Respondents Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company respectfully request that the Commission enter an Order granting summary disposition in their favor, and dismissing with prejudice the Complaints filed in this case by the Complainants.

Respectfully submitted,

/s/ James M. Fischer

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And

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**Attorneys for  
Kansas City Power & Light Company and  
KCP&L Greater Missouri Operations Company**

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 23<sup>rd</sup> day of August, 2013.

/s/ Roger W. Steiner

Roger W. Steiner

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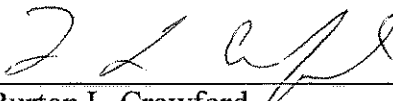
STATE OF MISSOURI )  
 )  
COUNTY OF JACKSON )

1. My name is Burton L. Crawford. I work in Kansas City, Missouri, and I am employed by Kansas City Power & Light Company (“KCP&L”) as Director, Energy Resource Management.

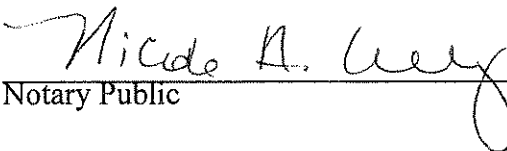
3. I hold a Master of Business Administration from Rockhurst College and a Bachelor of Science in Mechanical Engineering from the University of Missouri. Within KCP&L, I have served in various areas including regulatory, economic research, and power engineering starting in 1988.

4. The purpose of this Affidavit is to support the Motion for Summary Determination ("Motion") filed by KCP&L and KCP&L Greater Missouri Operations Company ("GMO") in this proceeding. As stated in the Motion, for the Renewable Energy Standard ("RES") Compliance filing made April 16, 2012, the planning years for KCP&L and GMO were the three consecutive years 2012, 2013 and 2014. No new renewable generation attributable to RES compliance was planned for KCP&L and GMO for any of those years. Since no new renewable generation attributable to RES compliance was planned for any of those period years, no calculation or explanation of the 1% retail rate cap was required by the RES rule.

5. I have knowledge of the matters set forth herein. I hereby swear and affirm that the statements contained herein are true and accurate to the best of my knowledge, information and belief.

  
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Burton L. Crawford

Subscribed and sworn before me this 23<sup>rd</sup> day of August, 2013.

  
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Notary Public

