

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

In the Matter of the Application of Kansas City)
Power & Light Company for a Waiver or Variance)
Of Certain Provisions of the Report and Order in) Case No. EE-2008-0238
Case No. ER-2007-0291)

**RESPONSE OF KANSAS CITY POWER & LIGHT COMPANY TO
TRIGEN'S OBJECTION TO THE ESTABLISHMENT
OF PROCEDURAL SCHEDULE**

Comes now Kansas City Power & Light Company ("KCPL") and respectfully submits the following Response To Trigen's Objection To The Establishment Of Procedural Schedule, and to the Order Establishing A Time For Response to Objections To Procedural Schedule issued on April 1, 2008. In support thereof, KCPL states as follows:

1. On January 23, 2008, KCPL applied for a waiver or variance regarding certain provisions of the Report and Order in Case No. ER-2007-0291 related to certain all-electric and electric space heating customers.

2. On March 24, 2008, a prehearing conference was convened to discuss the adoption of a proposed procedural schedule. At the prehearing conference, the Regulatory Law Judge directed that the parties file a procedural schedule, no later than March 31, 2008.

3. On March 31, 2008, KCPL, Staff, Public Counsel and Missouri Gas Energy ("MGE") filed their Proposed Procedural Schedule, as directed by the Regulatory Law Judge.

4. On March 31, 2008, Trigen-Kansas City Energy Corporation ("Trigen") filed its Objection To The Establishment Of Procedural Schedule ("Trigen Objection")

In the Trigen Objection, Trigen objected to the establishment of a procedural schedule on the ground that "it would be premature to set a procedural schedule" since it intends to file a motion to dismiss in the case. For the reasons stated herein, Trigen's objection should be overruled.

5. The proposed procedural schedule filed by KCPL, Staff, Public Counsel, and MGE contemplates that there may be motions to dismiss filed by April 18, 2008, and responses to such motions to be filed by April 28, 2008. As noted in the pleading filed on March 31 by KCPL on behalf of itself, Staff, Public Counsel and MGE, "[t]he parties have proposed a schedule that allows the Commission the opportunity to consider and decide those dispositive motions before the filing of rebuttal testimony." (Proposed Procedural Schedule, p. 2). As the Commission knows, the Commission often chooses to take such motions to dismiss with the case and rule upon such motions only after it has heard the evidence in the matter. However, if the Commission chose to rule on any motions to dismiss at an early stage of the case, it would have the opportunity to do so, prior to the filing of rebuttal testimony. As a result, there is no need to hold the entire case in abeyance or refrain from establishing a procedural schedule merely to wait for the resolution of the motion to dismiss.

6. Trigen also objected to the scheduling of a local hearing in Kansas City since it claims that the local hearing will be used "to circumvent the Commission's rule on prefiled testimony . . ." (Trigen Objection, p. 6). Again, Trigen's argument should be rejected. KCPL believes that there is substantial interest in this case among the affected commercial customers in the Kansas City area. A local hearing in Kansas City will be more convenient for these customers to present their views to the Commission.

Like in any other case, the local hearing will not be a substitute for the pre-filing of direct testimony which is proposed to be completed by KCPL on April 4, 2008. The scheduling of a local hearing, however, will give the interested KCPL customers a more convenient time and place to present their positions to the Commission. In addition, cross-examination is permitted in local hearings. Therefore, Trigen's concerns regarding its ability to question the witnesses at the local hearings and other due process concerns are misplaced.

7. Trigen also objects to the filing of Surrebuttal/Cross Surrebuttal on June 6, 2008, one week after the filing of the Rebuttal Testimony on May 30. It is likely that the only party to file Surrebuttal Testimony would be KCPL, and there will be little, if any, need for cross-surrebuttal testimony. However, if the Commission wants to add some additional time to the date for filing Surrebuttal/Cross-Surrebuttal Testimony, KCPL will not object to a one-week extension of this filing date to June 13. A later filing of Surrebuttal/Cross-Surrebuttal Testimony would be feasible since the proposed evidentiary hearings are not until June 25-26, 2008.

WHEREFORE, for the foregoing reasons, KCPL respectfully requests that the Commission adopt the proposed procedural schedule proposed by KCPL, Staff, Public Counsel and MGE on March 31, 2008, and deny Trigen's Objection To The Establishment Of Procedural Schedule.

Respectfully submitted,

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**COUNSEL FOR
KANSAS CITY POWER & LIGHT
COMPANY**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing has hand-delivered, emailed or mailed postage prepaid, first class, this 4th day of April, 2008, to all counsel of record.

/s/ James M. Fischer

James M. Fischer