

**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)
Certain Changes in its Charges for Electric)
to Service Begin the Implementation of Its)
Regulatory Plan)

Case No. ER-2006-0314

**PREHEARING BRIEF
OF THE OFFICE OF THE PUBLIC COUNSEL**

INTRODUCTION

On February 1, 2006, the Kansas City Power & Light Company (KCPL) filed with the Commission an application and tariff sheets designed to implement a general electric rate increase for service it provides to its Missouri customers.

In its Order Setting Procedural Schedule issued March 29, 2006, the Commission established October 12, 2006 as the deadline for prehearing briefs. This brief only addresses issues raised and supported by the testimony of Public Counsel witnesses.

Discussions are underway concerning settlement of Class Cost of Service and Rate Design issues. Should these discussions not prove fruitful, Public Counsel will submit a supplemental prehearing brief on those issues.

REVENUE REQUIREMENT

Fuel & Purchased Power Expense

What level of natural gas fuel price should be used in the production cost modeling that is used, along with appropriate fuel adders, to quantify the level of on-system fuel and purchased power expense that KCPL should be allowed to recover in its rates?

The June 30, 2006 NYMEX price information for the September 2006 natural gas futures contract should have been used in this phase of the case. Using the known and measurable June 30 information would have produced a lower fuel cost than that recommended by KCPL (Smith Direct, pp. 16-18). Pursuant to the Regulatory Plan¹, this price information should be updated in the true-up phase of the case.

Surface Transportation Board Litigation:

Should the deferred expenses associated with the Surface Transportation Board rail rate complaint case that were incurred through June 30, 2006, be included in rate base?

KCPL's Surface Transportation Board (STB) complaint cost incurred during the test year and its adjustment no. 58 for costs related to a STB proceeding against Union Pacific railroad should be rejected. The procedural schedule in this STB proceeding has been suspended. Cost levels related to this STB complaint previously estimated by KCPL to occur were not incurred by June 30, 2006, the date specified by the Commission for updates, at KCPL's estimated levels. Moreover, rate recognition of such costs should be coordinated with the period benefited, and there have been no benefits, only costs, identified in the test year.

SO2 Premiums:

How should SO2 premiums related to lower-sulfur coal be recorded for book and ratemaking purposes?

Pursuant to the Regulatory Plan, a maximum of \$400,000 should be recorded in Account 254 each year for SO2 premiums.

What parameters does the Commission-approved Stipulation & Agreement in Case No. EO-2005-0329 impose on the treatment of SO2 premiums in this case?

¹ The term "Regulatory Plan" as used herein refers to the Stipulation and Agreement approved by the Commission in EO-2005-0329.

Pursuant to the Regulatory Plan, a maximum of \$400,000 should be recorded in Account 254 each year for SO2 premiums.

Rate Case Expense:

Should rate case expense be normalized or deferred and amortized? If the latter, then what is the appropriate amortization period for the deferred rate case expense?

Rate case expense should be normalized. Normalization is the ratemaking practice that incorporates a level of expense into the revenue requirement for an activity that does not happen every year (or experiences significant fluctuations from year to year); rate case expense is a classic example of the type of expense that is usually normalized. Normalization does not result in any specific treatment on the financial records of the utility. In contrast, amortization requires special treatment or recognition on the financial records of the utility. An amortization results in the deferral of recognition of expenses on the income statement contrary to what Generally Accepted Accounting Principles normally require.

True-up:

What elements of Cost of Service and Rate Base should be updated in the September True Up?

The Regulatory Plan provides at page 30:

The specific list of items to be included in the true-up proceeding shall be mutually agreed upon between KCPL and the Signatory Parties, or ordered by the Commission during the course of the rate case. However, the Signatory Parties anticipate that the true-up items will include, but not necessarily be limited to, revenues including off-system sales, fuel prices and purchased power costs, payroll and payroll related benefits, plant-in-service, property taxes, depreciation and other items typically included in true-up proceedings before the Commission.

Public Counsel suggests that the above list is the mandatory starting point for the elements to be included in the true-up.

Regulatory Plan Additional Amortizations:

Public Counsel believes that many of the issue relating to Regulatory Plan additional Amortizations have been agreed upon and so will not address them in this brief.

What risk factor should be used in calculating the Regulatory Plan additional amortizations for off-balance sheet purchased power agreements?

As stated by Public Counsel witness Russell Trippensee:

[T]he lowest risk factor available within the rating agency methodology should be utilized to determine the debt-equivalent value of each off-balance sheet obligation included in the calculation of the amortization. KCPL is a regulated entity providing service to Missourians as a monopoly provider of electric service. Any risk associated with a loss of market share for the services provided, loss of revenue streams, or this Commission's obligation to provide KCPL with an opportunity to earn a reasonable rate of return (i.e. all expense supported by revenue including a reasonable return) is minimal. Thus, Public Counsel recommends that the risk factor to apply be 10%.
(Trippensee Rebuttal, pp. 4-5)

Off-system Sales:

What level of off-system sales margin should be included in determining KCPL's cost of service?

The median value for off-system sales margin should be reflected in setting KCPL's revenue requirement in this proceeding.

How should the off-system sales margin be allocated to the Missouri retail, Kansas retail and FERC wholesale jurisdictions?

The Commission should adopt the 56.68% Energy factor proposed by Staff.

What parameters does the Commission-approved Stipulation & Agreement in Case No. EO-2005-0329 impose on the treatment of off-system sales revenue in this case?

The Regulatory Plan provides (at page 22):

KCPL agrees that off-system energy and capacity sales revenues and related costs will continue to be treated above the line for ratemaking purposes. KCPL will not propose any adjustment that would remove any portion of its off-system sales

from its revenue requirement determination in any rate case, and KCPL agrees that it will not argue that these revenues and associated expenses should be excluded from the ratemaking process.

Should KCPL's customers receive the benefit of all margins of off-system sales or should it be shared between customers and shareholders? Should a mechanism be adopted to ensure that the benefit is received by the appropriate party or parties? If so, what mechanism?

No. See previous answer.

Cost of Capital:

What is the appropriate capital structure?

Public Counsel concurs with KCPL's recommended capital structure of 44.67% Debt, 53.81% Common Equity, and 1.52% Preferred Stock.

What is the appropriate return on common equity (ROE)?

The appropriate return on Common Equity is 9.90%.

Should ROE be adjusted either upwards or downwards to reflect increased or decreased risk or company performance? If so, what adjustment should be made?

No such adjustment should be made.

Respectfully submitted,

OFFICE OF THE Public Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 14th day of October, 2006.

By: _____