

In the Matter of the Resource Plan of)
Kansas City Power & Light Company) Case No. EO-2013-0537

The comments of the Office of the Public Counsel (Public Counsel or OPC) in response to the Annual Update Report (Annual Update) filed by Kansas City Power & Light Company (KCPL or the Company) are as follows:

2. KCPL's request that the Commission acknowledge its joint company planning process is flawed because: (1) the acknowledgement provision in the Commission's IRP rule only applies to acknowledgement of a Company's resource acquisition strategy or a specified element of that strategy and does not apply to acknowledgement of the analytical approach or methodologies that were used in the IRP planning process to arrive at the resource acquisition strategy; (2) the provision in the IRP rules for acknowledgment is only applicable to triennial resource plan filings; (3) planning on a joint or combined company basis is not permitted by the

IRP rules and the Company has not requested any variance from, or waiver of, the requirement for utilities to make a utility-specific Annual Update report filing pursuant to 4 CSR 240-22.080 (3)(B), that would permit this type of combined company planning process; and (4) making the same request for acknowledgement of a combined company planning process in this Annual Update filing that was made in the Company's most recent triennial filing (Case No. EO-2012-0323), where this request was related to two of OPC's unresolved deficiencies that the Commission ordered KCPL to address in this case, is inappropriate.

3. The scope of IRP-related items that can be acknowledged under 4 CSR 240-22.080(17) is limited by the definition of "acknowledgement" in 4 CSR 240-22.020(1) which states "Acknowledgment is an action the commission may take with respect to the officially adopted resource acquisition strategy **or any element of the resource acquisition strategy** including the preferred resource plan." (Emphasis added). The definition of "resource acquisition strategy" in 4 CSR 240-22.020(51) is:

Resource acquisition strategy means a preferred resource plan, an implementation plan, a set of contingency resource plans, and the events or circumstances that would result in the utility moving to each contingency resource plan. It includes the type, estimated size, and timing of resources that the utility plans to achieve in its preferred resource plan.

The use of a combined company planning process is clearly not an "**element of the resource acquisition strategy.**" Instead, planning on a combined company basis is an approach to planning, or a methodology used in the planning process that ultimately leads to the utility's determination of its resource acquisition strategy and the various elements of that strategy that are referenced in 4 CSR 240-22.020(51). The Company's request for acknowledgment of "planning that includes a joint company view" as an "element of its planning process" is a request for the Commission to acknowledge something other than the Company's resource acquisition strategy or one of the elements of that strategy. The IRP rules do not contain any

provisions under which the Commission could grant the Company's request for acknowledgement of an "element of its planning process." This type of acknowledgment is not provided for in the Commission's IRP rules and must be denied.

4. The request in this Annual Update for the Commission to acknowledge joint company planning for KCPL and GMO is also flawed because the provision in the IRP rules for acknowledgment is only applicable to triennial resource plan filings. The limitation of acknowledgment to triennial resource plan filings is clear because 4 CSR 240-22.080(17) refers to Commission findings regarding 4 CSR 240-22.080(16) which pertains solely to triennial IRP filings. Portions of 4 CSR 240-22.080(16) refer to other rule provisions that are procedural steps outlined in the rule pertaining solely to the triennial resource plan filings (subsections (9) and (10) of 4 CSR 240-22.080) and there are no references in 4 CSR 240-22.080(16) to any of the procedural steps pertaining to Annual Update filings.

5. Another flaw in the Company's request for the Commission to acknowledge a joint company planning process for KCPL and GMO stems from KCPL's failure to request a variance from, or waiver of, the requirement for utilities make a utility-specific Annual Update report filing pursuant to 4 CSR 240-22.080 (3)(B). The selection of a preferred plan and determination of other elements of the resource acquisition strategy adopted by the utility must follow the process set forth in the rule. 4 CSR 240-22.070(1) states "The utility shall select a preferred resource plan from among the alternative resource plans that have been analyzed pursuant to the requirements of 4 CSR 240-22.060." The alternative resource plans developed pursuant to 4 CSR 240-22.060 selected pursuant to 4 CSR 240-22.070 are individual company-specific plans for the utility making the triennial or Annual Update filing, not combined company resource plans.

6. The request for the Commission to acknowledge joint company planning for KCPL and GMO is also flawed because KCPL is making the same request for acknowledgement of a combined company planning process in this Annual Update filing that was made in the Company's most recent triennial filing (Case No. EO-2012-0323), where this request was related to two of OPC's unresolved deficiencies that the Commission ordered KCPL to address in this case. Public Counsel's unresolved deficiencies and the corresponding suggested remedies related to this same acknowledgment request from Case No. EO-2012-0323 were:

1. 4 CSR 240-22.080 (13) – KCPL failed to request a variance from, or waiver of, the requirement in 4 CSR 240-22.080 (1) for utilities to make separate utility-specific triennial compliance filing and KCPL has instead chosen to “perform its resource planning on a joint company basis” with GMO. Even though no such waiver was requested, KCPL makes a request on page 25 of Volume 8 for “Commission acknowledgement that it is reasonable for KCP&L and GMO to perform resource planning on a joint company basis.” KCPL has not requested the variance or waiver from Chapter 22 rules that would be necessary for the Commission to make the requested acknowledgement. Furthermore, in addition to not requesting such a variance 12 months prior to its triennial filing date as required by 4 CSR 240-22.080(13), the Company has not shown good cause for such a waiver or variance. KCPL's attempt to show financial benefits from performing resource planning on a joint company basis is premised upon the assumption that neither GMO nor KCPL would make investments in a new gas-fired combined cycle plant unless the combined capacity need of GMO and KCPL would be sufficient to allow GMO and KCPL combined to have majority ownership of the plant. KCPL has not presented any type of financial or risk analysis to support this planning assumption.

Suggested Remedy: In the future, timely variances should be requested by the Company if it wants to make a triennial resource plan filing that is not in compliance with Chapter 22 rules. The Company should remedy the deficiency in the current filing by withdrawing: (1) its request for “Commission acknowledgement that it is reasonable for KCP&L and GMO to perform resource planning on a joint company basis” and (2) its request for the Commission to find that the Preferred Plan, which is premised on the joint company basis resource planning performed as part of this filing, is reasonable.

2. 4 CSR 240-22.080 (16)(A) – Public Counsel recommends that the Commission find, pursuant to 4 CSR 240-22.080 (16)(A) that the electric utility's filing pursuant to this rule does NOT demonstrate compliance with the requirements of Chapter 22, and that the utility's resource acquisition strategy either does not meet the requirements stated in 4CSR 240-22.

KCPL's request that the Commission find that its preferred resource plan is reasonable should be denied because the utility's preferred resource plan is premised upon the lawfulness and reasonableness of KCP&L and GMO performing resource planning on a joint company basis. As shown in deficiency number one above, KCPL did not request the variance or waiver from Chapter 22 rules that would be necessary for the Commission to make the requested reasonableness finding regarding the preferred plan resulting from joint planning that has not been authorized by the Commission. In addition, the performance of resource planning on a joint company basis that was done for this triennial filing: (1) failed to show any substantial financial benefits of joint filing that are not premised upon the assumption that neither GMO nor KCPL would make investments in a new gas-fired combined cycle plant unless the combined capacity need of GMO and KCPL would be sufficient to allow GMO and KCPL combined to have majority ownership of the plant and (2) did not comply with all the requirements of Chapter 22 such as the requirement in 4 CSR 240-22.080 (2)(C)3 for special contemporary issues to be addressed.

Suggested Remedy: The Company should file a revised triennial resource plan that corrects this deficiency within 180 days.

KCPL made no effort whatsoever to work with Public Counsel to address these unresolved deficiencies in this case despite the fact that the Commission's "Order Regarding 2012 Integrated Resource Plan" in Case No. EO-2012-0323 ordered the Company to "address the twenty-five (25) alleged deficiencies and concerns identified as unresolved in the Joint Filing in its 2013 Annual Update report." The Commission provided an opportunity for the Company to work with the parties and address unresolved deficiencies in its prior order in Case No. EO-2012-0323 but the Company chose to ignore this opportunity. The only places in the Company's Annual Update where these unresolved OPC deficiencies were commented upon were on pages 145 and 146 where the Company made nearly identical statements regarding each of OPC's deficiencies stating that the Company:

has performed its resource planning on a stand-alone company basis. The Company does not believe that the additional analysis completed on a combined company basis required a waiver from the Commission.

These comments by the Company in response to OPC's unresolved deficiencies imply that the Company merely performed some rather insignificant "additional analysis" on a combined

company basis but the combined company approach to analysis is clearly of paramount importance to the Company given that this is the only aspect of its Annual Update for which it is seeking Commission acknowledgement. The Commission surely expected that the Company would take the opportunity to work with the parties to address unresolved deficiencies in this Annual Update and do more than (1) attempt to minimize the importance of OPC's unresolved deficiencies and (2) merely state in its update filing that it never believed there was any deficiency to be resolved in the first place.

7. Public Counsel recommends that the Commission: (1) find that the Company's Annual Update filing does not comply with the Commission's IRP rules because it has used a combined company planning process that is not in compliance with the rule; and (2) deny the Company's request for acknowledgement of its combined company planning process because (a) the acknowledgment provision in the rule pertains solely to elements of the resource acquisition strategy and the Commission finds that a combined company planning process is not one of the elements of a utility's resource acquisition strategy that can be acknowledged and (b) the provision in the IRP rules for acknowledgment is only applicable to triennial resource plan filings. If the Commission does not adopt Public Counsel's recommendations, then OPC requests a hearing where these issues can be presented to the Commission for its determination.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Lewis R. Mills
Lewis R. Mills, Jr. (#35275)
Public Counsel
P O Box 2230
Jefferson City, MO 65102
(573) 751-1304

(573) 751-5562 FAX
lewis.mills@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 21st day of August 2013.

Missouri Public Service Commission

Steve Dottheim
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Steve.Dottheim@psc.mo.gov

Missouri Public Service Commission

Office General Counsel
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Renew Missouri

Andrew J Linhares
910 E Broadway, Ste 205
Columbia, MO 65201
Andrew@renewmo.org

Sierra Club

Thomas Cmar
5042 N. Leavitt St., Ste. 1
Chicago, IL 60625
tcmar@earthjustice.org

Sierra Club

Shannon Fisk
1617 John F. Kennedy Blvd, Suite 1675
Philadelphia, PA 19103
sfisk@earthjustice.org

Sierra Club

Henry B Robertson
705 Olive Street, Suite 614
St. Louis, MO 63101
hrobertson@greatriverslaw.org

Natural Resources Defense Council

Henry B Robertson
705 Olive Street, Suite 614
St. Louis, MO 63101
hrobertson@greatriverslaw.org

Natural Resources Defense Council

Kimiko Narita
20 N. Wacker Drive, Suite 1600
Chicago, IL 60606
knarita@nrdc.org

Dogwood Energy, LLC

Carl J Lumley
130 S. Bemiston, Ste 200
St. Louis, MO 63105
clumley@lawfirmemail.com

Kansas City Power & Light Company

James M Fischer
101 Madison Street, Suite 400
Jefferson City, MO 65101
jfischerpc@aol.com

Kansas City Power & Light Company

Roger W Steiner

Missouri Department of Natural Resources

Jessica L Blome

1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@kcpl.com

221 W. High Street
P.O. Box 899
Jefferson City, MO 65102
Jessica.Blome@ago.mo.gov

**Missouri Industrial Energy Consumers
(MIEC)**

Diana M Vuylsteke
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

/s/Lewis R. Mills, Jr.