## BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

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

## **REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION AND REHEARING**

Sierra Club, the Office of the Public Counsel, and Natural Resources Defense Council (collectively "Stakeholders") respectfully submit this reply in support of their motion for reconsideration and/or rehearing in this proceeding. As Stakeholders explained in their motion, reconsideration and/or rehearing is appropriate here because KCP&L has failed to address the unresolved deficiencies that Stakeholders raised in last year's integrated resource plan ("IRP") triennial compliance filing, Case No. EO-2012-0323, despite the Commission having directed the company (in its December 19, 2012 order in that docket) to do so in this year's annual update filing. The Commission has ample authority to take action on KCP&L's annual update filing under Sections 386.250 and 393.140 RSMo and 4 CSR 240-22.080(16), as Stakeholders explained in more detail in their motion.

KCP&L's response to Stakeholders' motion emphasizes that the Commission's IRP rules do not provide a right to a hearing. This argument misses the mark; Stakeholders do not contend here that there is *a right* to a hearing. Rather, Stakeholders contend that the Commission *should* hold a hearing. The Commission should exercise its authority to require hearings, either in this docket or in Case No. EO-2012-0323, because Stakeholders have raised numerous deficiencies both with last year's triennial compliance filing and this year's annual update filing that have not been resolved and that the Commission should review to determine whether KCP&L has complied with the IRP rules.

1

KCP&L's dismissal of the deficiencies raised by Stakeholders as "highly technical" also misses the mark. The deficiencies raised by Stakeholders go to the heart of the company's resource planning, in particular whether the company has complied with 4 CSR 240-22.010(2) in justifying not selecting a resource plan that minimizes the net present value of long-run utility costs. Evaluating why the company did not choose the least-cost plan for its ratepayers necessarily involves review of the technical underpinnings of KCP&L's IRP modeling and analysis, and Stakeholders invested significant resources over the last several years to engage in this legal and technical review. If the Commission declines to grant reconsideration or rehearing in this proceeding or to hold a hearing in Case No. EO-2012-0323, this would severely undermine the role of stakeholder participation in the IRP process.

As Stakeholders explained in their motion, the Commission's decision here will also help determine whether, in the future, parties will be able to consider deferring litigation over deficiencies they have identified with a utility's triennial compliance filing through an agreement that the utility can try to address the issues in its next annual update filing, as the parties did in Case No. EO-2012-0323. By failing to hold a hearing or otherwise take action on an annual update filing, the Commission will effectively tell Stakeholders and others that such agreements will not be enforced. In turn, such a decision will significantly alter the flexibility of the process and make it more difficult for parties in the future to resolve deficiencies in a collaborative manner.

For the reasons set forth above, and in their motion for reconsideration and rehearing, Stakeholders respectfully request that the Commission either reconsider its October 9, 2013 order in, and hold a hearing in, this matter, or re-open Case No. EO-2012-0323 and hold a

2

hearing in that proceeding to resolve remaining issues with KCP&L's 2012 IRP as supplemented

by its 2013 annual update.

Respectfully submitted,

<u>/s Thomas Cmar</u> Thomas Cmar Earthjustice 5042 N. Leavitt St., Ste. 1 Chicago, IL 60625 (312) 257-9338 tcmar@earthjustice.org

Attorneys for Sierra Club

<u>/s Henry Robertson</u> Henry B. Robertson Great Rivers Environmental Law Center 705 Olive Street, Suite 614 St. Louis, Missouri 63101 (314) 231-4181 (314) 231-4184 hrobertson@greatriverslaw.org

Attorneys for Sierra Club and NRDC

<u>/s Kimiko Narita</u> Kimiko Narita Natural Resources Defense Council 1314 2nd Street Santa Monica, CA 90401 (310) 434-2317 knarita@nrdc.org

Attorneys for NRDC

## OFFICE OF THE PUBLIC COUNSEL

/s/ Lewis R. Mills, Jr.

By: Lewis R. Mills, Jr. (#35275) Public Counsel P O Box 2230 Jefferson City, MO 65102 (573) 751-4857 (573) 751-5562 FAX lewis.mills@ded.mo.gov

## **CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing document was served via electronic mail this 12th day of November 2013, to the persons listed on the below service list.

/s Thomas Cmar

Missouri Public Service Commission General Counsel Office P.O. Box 360 200 Madison Street, Suite 800 Jefferson City, MO 65102 <u>Staffcounselservice@psc.mo.gov</u>

Office of the Public Counsel Lewis Mills P.O. Box 2230 200 Madison Street, Suite 650 Jefferson City, MO 65102 opcservice@ded.mo.gov

Brubaker & Associates, Inc. Maurice Brubaker P.O. Box 412000 St. Louis, MO 63141-2000 mbrubaker@consultbai.com

Brubaker & Associates, Inc. Greg Meyer P.O. Box 412000 St. Louis, MO 63141-2000 gmeyer@consultbai.com

Kansas City Power & Light Company Don Frerking P.O. Box 418679 Kansas City, MO 64141-9679 Don.frerking@kcpl.com

KCP&L Greater Missouri Operations Company James Fischer 101 Madison Street, Suite 400 Jefferson City, MO 35101 jfischerpc@aol.com Kansas City Power & Light Company Lois Liechti P.O. Box 418679 Kansas City, MO 64141-9679 lois.liechti@kcpl.com

Kansas City Power & Light Company Marisol Miller P.O. Box 418679 Kansas City, MO 64141-9679 marisol.miller@kcpl.com

Kimiko Narita 1314 Second Street Santa Monica, CA 90401 <u>knarita@nrdc.org</u>

Kansas City Power & Light Company Tim Rush P.O. Box 418679 Kansas City, MO 64141-9679 tim.rush@kcpl.com

Kansas City Power & Light Company Roger Steiner P.O. Box 418679 Kansas City, MO 64141-9679 roger.steiner@kcpl.com

Missouri Department of Natural Resources Jessica Blome P.O. Box 899 221 W. High Street 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 <u>dnvuylsteke@bryancave.com</u>

Missouri Public Service Commission Steve Dottheim P.O. Box 360 200 Madison Street, Suite 800 Jefferson City, MO 65102 <u>Steve.Dottheim@psc.mo.gov</u>

Henry B. Bobertson 705 Olive Street, Suite 614 St. Louis, MO 63101 hrobertson@greatriverslaw.org Renew Missouri Andrew J. Linhares 910 E. Broadway, Suite 205 Columbia, MO 65201 Andrew@renewmo.org

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

Sierra Club Shannon Fisk 1617 John F. Kennedy Blvd., Suite 1675 Philadelphia, PA 19103 <u>sfisk@earthjustice.org</u>