

**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)	<u>Case No. ER-2007-0291</u>
Certain Changes in its Charges for Electric)	
Service to Implement its Regulatory Plan)	

PUBLIC COUNSEL’S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel and offers its Statement of Positions on the agreed-upon list of issues. Public Counsel’s positions are shown after each issue.

REVENUE REQUIREMENT

Rate of Return

1. Return on Common Equity: What return on common equity should be used for determining KCPL’s rate of return? **Public Counsel Position: 10.1%**
 - a. Is KCPL’s decreased risk due to the Kansas City Power & Light Company Experimental Regulatory Plan the Commission approved in Case No. EO-2005-0329 a factor that reduces the return on common equity otherwise appropriate for KCPL? **Public Counsel Position: No**
 - b. Is KCPL's increased risk due to its large construction undertakings a factor that increases the return on common equity otherwise appropriate for KCPL? **Public Counsel Position: No**
 - c. If so, what is the impact of these factors? **Public Counsel Position: N/A**
2. Capital Structure: What capital structure should be used for determining KCPL’s rate of return? **Public Counsel Position: 45.24% Debt, 1.33% Preferred Stock, and 53.43% Common Equity.**

Expense Issues

3. Hawthorn 5 Subrogation Proceeds: Should subrogation proceeds KCPL received in 2006 concerning the 1999 Hawthorn 5 boiler explosion litigation be included in cost of service for setting KCPL’s rates? **Public Counsel supports Staff’s position.**

- a. If so, should the five-year amortization period proposed by Staff be adopted? **Public Counsel supports Staff's position.**
4. **Long-term Incentive Compensation:** Should the costs of KCPL's and GPE's long-term incentive compensation plans be included in cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
5. **Short-term Executive Compensation:** Should part of the costs of KCPL's and GPE's short-term executive compensation plans be excluded from cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
6. **Talent Assessment Program Employee Severance Cost:** Should the severance and other associated costs of KCPL employees terminated under KCPL's talent assessment program be included in cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
 - a. If so, should the costs be recognized in cost of service using KCPL's proposed deferral and amortization to expense over five years? **Public Counsel supports Staff's position.**
7. **Employee Severance Cost:** Should the severance costs of KCPL employees terminated for reasons other than KCPL's talent assessment program be included in cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
 - a. If so, is it appropriate to include a three-year average of those costs? **Public Counsel supports Staff's position.**
8. **Cost of Removal Income Tax:** Should the tax timing difference for cost of removal be reflected under normalization accounting or flow-through accounting for pre-1981 vintage property for purposes of determining income tax expense in KCPL's cost of service for this case? **Public Counsel supports Staff's position.**
 - a. If normalization accounting is occurring or adopted, is an amortization required for prior benefits resulting from the use of flow-through accounting subsequent to 1979? **Public Counsel supports Staff's position.**
 - i. If so, what time period should be used for the amortization? **Public Counsel supports Staff's position.**
9. **Organization Membership Dues:** What level of membership dues KCPL paid to organizations should be included in cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
10. **Advertising Costs:** What level of KCPL's advertising costs should be included in KCPL's cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**

11. Washington Employee Costs: Should any level of costs associated with KCPL's Washington, D.C. employee who represents KCPL in federal matters be included in KCPL's cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
 - a. If not, what level of costs should be excluded in addition to those currently recorded by that employee as excluded lobbying costs. **Public Counsel supports Staff's position.**
12. KCPL Supplemental Executive Retirement Pension (SERP) costs: What level of SERP costs should be included in KCPL's cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
13. Meal Expenses: What level of local meal expense should be included in KCPL's cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
14. Off-system sales margin:
 - a. Should KCPL's rates continue to be set at the 25th percentile of non-firm off-system sales margin they are projected to be in 2008 as proposed by KCPL and accepted by the Staff or at the 40th percentile as proposed by Public Counsel? **Public Counsel proposes that rates be set based on the 40th percentile.**
 - b. Should interest be calculated and flowed to ratepayers on the off-system sales margin that exceeds the off-system sales margin level the Commission approved to be recovered in rates in Case No. EO-2006-0314? **Public Counsel Position: Yes**
15. Department of Energy Nuclear Fuel Overcharge Refund: Should the Department of Energy Nuclear Fuel Overcharge Refunds for 1986 through 1993 KCPL received during the test year in this case be included in KCPL's cost of service for setting KCPL's rates? **Public Counsel supports Staff's position.**
 - a. If so, should the five-year amortization period proposed by Staff be adopted? **Public Counsel supports Staff's position.**
16. Research and Development Tax Credits: Should research and development tax credits related to amended income tax returns for years 2000 to 2004 be deferred and amortized in KCPL's cost of service for setting KCPL's rates, if received in the future? **Public Counsel supports Staff's position.**
 - a. If so, at what level? **Public Counsel supports Staff's position.**
 - b. Should costs KCPL incurred to obtain the tax credits be included in KCPL's cost of service? If so, at what level? **Public Counsel supports Staff's position.**

17. Bad Debt Expense: What bad debt expense factor should be applied to both adjusted and pro-forma revenues to determine the level of bad debt expense to be included in cost of service? **Public Counsel supports Staff's position.**
18. Wolf Creek Refueling Outage Costs: Should the Commission order KCPL to reflect Wolf Creek refueling outage costs under the defer-and-amortize method adopted by KCPL in 2006 in accordance with a new accounting pronouncement or order KCPL to maintain its accounting for regulatory purposes under the prior accrue-in advance method? **Public Counsel supports Staff's position.**
 - a. If the accrue-in-advance method is ordered, what projected cost level should be established for purposes of both the accrual allowed in cost of service and for the tracking mechanism proposed by Staff? **Public Counsel supports Staff's position.**

Rate Base Issues

19. Rate Case Expense: Should KCPL's rate case expense deferred for future amortization in accordance with the Commission's order in Case No. ER-2006-0314 be included in KCPL's rate base? **Public Counsel Position: No**
20. Surface Transportation Board Litigation Expenses: Should KCPL's surface transportation board litigation expenses deferred for future amortization in accordance with the Commission's order in Case No. ER-2006-0314 be included in KCPL's rate base? **Public Counsel supports Staff's position.**

CLASS COST OF SERVICE / RATE DESIGN

21. Effect of Case No. EO-2005-0329 Stipulation and Agreement on Inter-class Shifts: Does the Stipulation and Agreement incorporating the KCPL Experimental Regulatory Plan that the Commission approved in Case No. EO-2005-0329 allow the signatories to the Stipulation and Agreement to propose inter-class revenue shifts in this case? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) does not allow for changes in rate design in this case and the next (optional) case.**
 - a. If so, should any inter-class revenue shifts be implemented in this case? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) does not allow for changes in rate design in this case and the next (optional) case.**

22. Large Power Service Rate Design:
- a. Does the Stipulation and Agreement incorporating the KCPL Experimental Regulatory Plan that the Commission approved in Case No. EO-2005-0329 allow the signatories to the Stipulation and Agreement to make rate design modifications within the Large Power Service rate schedule? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) does not allow for changes in rate design in this case and the next (optional) case.**
 - b. If so, what are the appropriate demand and energy charges for the Large Power Service rate schedule? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) does not allow for changes in rate design in this case and the next (optional) case.**
23. General Service All-electric tariffs and general service separately-metered space-heating tariff provisions:
- a. Should KCPL's general service all-electric tariff rates and separately-metered space heating rates be increased more (i.e., by a greater percentage) than KCPL's corresponding standard general application rates and if so, by how much more? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) does not allow for changes in rate design in this case and the next (optional) case.**
 - b. Should KCPL's general service all-electric tariffs and separately-metered space heating rates be phased-out, and if so, over what period? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) does not allow for changes in rate design in this case and the next (optional) case.**
 - c. Should the availability of KCPL's general service all-electric tariffs and separately-metered space heating rates be restricted to those qualifying customers commercial and industrial physical locations being served under such all-electric tariffs or separately-metered space heating rates as of the date used for the billing determinants used in this case (or as an alternative, the operation of law date of this case) and should such rates only be available to such customers for so long as they continuously remain on that rate schedule (i.e., the all-electric or separately-metered space heating rate schedule they are on as of such date)? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) does not allow for changes in rate design in this case and the next (optional) case.**

d.

i. Should the Commission require KCPL, as soon as possible but not later than its next rate case, to present complete cost of service and/or cost-effectiveness studies and analyses of KCPL's general service all-electric tariffs and separately-metered space heating rates and, consistent with the findings of such studies and analyses, allow KCPL the opportunity at that time to present its preferred phase-out plan for the remaining commercial and industrial customers served under the all-electric tariffs and separately-metered space heating rates? **Public Counsel Position: The Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan) prohibits new Class Cost of Service studies in this case and the next (optional) case.**

ii. In the event that KCPL does not file such cost of service and/or cost-effectiveness studies before or as part of its next rate case, should the Commission require KCPL to impute the revenues associated with the discounted rates in the all-electric general service tariffs and separately-metered space heating provisions of its tariffs and impute revenues equal to KCPL's cost of administering these discounted rates as part of its next rate case? **Public Counsel Position: No**

e. Should the Commission require KCPL to (a) investigate and determine whether the commercial and industrial customers currently served under the general service all-electric tariffs and the separately-metered space heating provisions of the standard general service tariffs continue to meet the eligibility requirements for those discounted rates; (b) remove from the discounted rates those customers which KCPL's investigation determines are no longer eligible for such discounted rates; and (c) monitor and police the eligibility requirements of those customers receiving such discounted rates for reporting in KCPL's direct testimony in its next rate case filing? **Public Counsel takes no position on this issue.**

f. Should the Commission approve KCPL's proposal to rename its general service "All-Electric" tariffs as "Space Heating" tariffs? **Public Counsel takes no position on this issue.**

KCPL Experimental Regulatory Plan Additional Amortization

24. KCPL Experimental Regulatory Plan Additional Amortization: What, if any, additional amortization is required by KCPL's Experimental Regulatory Plan approved by the Commission in Case No. EO-2005-0329 to meet Standard and Poor's credit metrics? **Public Counsel Position: Any change necessary in the Additional Amortization that was approved in Case No. ER-2006-0314 can only**

be determined after the Commission has determined the revenue requirement excluding any change in the amortization. The resulting revenue requirement would then be compared to financial metrics test contained in the Stipulation and Agreement in EO-2005-0329 (the Regulatory Plan).

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 25th day of September 2007.

/s/ Lewis R. Mills, Jr.
By: _____