

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

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In the Matter of the Application of)
Kansas City Power & Light Company)
For Approval to Transition to Permanent)
Status Certain Demand Side)
Management Programs.)

by
State Corporation Commission
of Kansas
Docket No. 11-KCPE-780-TAR

CURB's Response to Staff's Report and Recommendation

The Citizens' Utility Ratepayer Board ("CURB") submits its comments on Kansas City Power and Light's application for approval of its proposed portfolio of demand-side-management ("DSM") programs, and the Staff of the Kansas Corporation Commission's Report and Recommendation which was filed in the above-captioned docket on September 29, 2011.

On May 27, 2011, Kansas City Power and Light ("KCPL" or "company") filed an application seeking Commission approval to make permanent a portfolio of six DSM programs:

- (1) Energy Optimizer ("EO"),
- (2) MPower,
- (3) Home Energy Analyzer,
- (4) Business Energy Analyzer,
- (5) Low Income Weatherization, and
- (6) Building Operator Certification ("BOC") Program.

On September 29, 2011, Staff filed its report and recommendation to the Commission regarding KCPL's application. Staff recommends the Commission:

- (1) approve KCPL's proposed DSM programs on a temporary two-year basis, allowing time for parties and the Commission to further examine or re-examine the role DSM programs will have in the future, and
- (2) remove the phrase "and/or other applicances" be removed from page one of KCPL's EO program tariff, and
- (3) direct Staff within its Order in this Docket to open a new general investigation docket wherein specific difficulties concerning energy efficiency policy can be identified and resolved.

A. Program Economics

The Commission should note that only three of KCPL's proposed six DSM programs are subjected to the benefit-cost tests as ordered in the Commission's April 13, 2009 *Order Following Collaborative on Benefit-Cost Testing and Evaluation, Measurement and Verification* in 08-GIMX-442-GIV ("442 Docket") – EO, MPower, and Low Income Weatherization¹. Staff recommends approval of each of KCPL's proposed programs even though Staff did not conduct the type of benefit-cost analysis required by the Commission's order in the 442 Docket.

CURB is troubled that Staff, having stated its reservations in this proceeding regarding the inclusion of "inflated" avoided costs used by KCPL, did not perform its own benefit-cost analyses of any of KCPL's programs to determine whether or not these energy-efficiency programs make economic sense for ratepayers in Kansas.

¹ KCPL's Low Income Weatherization program is by definition a social welfare program, which is not subjected to the same benefit-cost test scrutiny as other DSM programs.

Instead of performing its own independent analysis, Staff relied upon the benefit-cost test results provided by KCPL. Exhibits JDJ-1, JDJ-2, and JDJ-5 provided by KCPL witness Jason D. Jones, make available the assumptions used by KCPL to determine the cost-effectiveness of its DSM programs. These exhibits show that KCPL's assumptions of avoided capacity costs and avoided transmission and delivery ("T&D") costs are identical to the assumptions used in its benefit-cost calculations in the 10-KCPE-795-TAR docket ("795 Docket").² Staff acknowledges in its report and recommendation that these avoided capacity and transmission costs are "inflated," yet allows the inclusion of the exaggerated figures and concludes that KCPL's cost-effectiveness calculations are "reasonably accurate".³

Staff's conclusion that KCPL's cost-effectiveness calculations are "reasonably accurate" directly contradicts its own analyses and recommendations in the 795 Docket. In the 795 Docket, Staff witness Michael Deupree indicated that "Staff has previously used \$66.00 per kW as a general rule of thumb for the appropriate value of avoided generation costs,"⁴ and further concluded that the avoided capacity costs used by KCPL were greatly overstated. Additionally, Mr. Deupree took exception in the 795 Docket to KCPL's inclusion of avoided transmission capacity, stating that "(e)nergy efficiency provides many system-wide benefits, but Staff does not believe that avoided transmission capacity is one of them."⁵ CURB is puzzled how Staff determined in this proceeding that KCPL's avoided capacity and transmission costs produced a "reasonably accurate" result,

² KCC Docket No. 10-KCPE-795-TAR, Direct Testimony of Allen D. Dennis, Schedules ADD-10, ADD-12, and ADD-13.

³ Staff Report and Recommendation, at page 4.

⁴ KCC Docket No. 10-KCPE-795-TAR, Direct Testimony of Michael Deupree, at page 10-11.

⁵ KCC Docket No. 10-KCPE-795-TAR, Direct Testimony of Michael Deupree, at page 12.

when just one year ago, these same avoided capacity and transmission costs were deemed by Staff to be exceedingly high.

Staff's positions regarding the EO and MPower programs in the 795 Docket are also inconsistent with its recommendations in this proceeding. As part of his direct testimony in the 795 Docket, Staff witness Deupree indicated that "Staff is generally concerned with the benefit-cost results for the Energy Optimizer program."⁶ Mr. Deupree's analysis in the 795 Docket shows that KCPL's EO program was not able to achieve a passing Ratepayer Impact Method ("RIM") score of more than 1.0. In fact, his analysis showed that the RIM score achieved by KCPL's EO program was only 0.89. Mr. Deupree acknowledged that "(d)emand response programs should, as a rule, be able to pass all tests of cost-effectiveness, including the RIM test, as the program provides immediate system benefits through the reduced need for peak generation. That the Energy Optimizer program may not be delivering system benefits to justify utility expenses is troubling."⁷

By contrast, in spite of Staff's specific concerns in the 795 Docket regarding the EO program, and Staff's stated opinion that KCPL is inflating its avoided costs, Staff's report and recommendation in this proceeding is devoid of any analysis or language that expresses similar concerns about the EO program. Staff also does not question why KCPL's EO program was only able to achieve a RIM score of 0.89 in the 795 Docket, yet achieves a RIM score of 16.33 in this proceeding – **a 1,600% increase**. The extreme RIM score provided by KCPL raises particular concerns, because the benefits from the EO program are only accrued when KCPL chooses to push the button and utilize the

⁶ KCC Docket No. 10-KCPE-795-TAR, Direct Testimony of Michael Deupree, at page 35.

⁷ KCC Docket No. 10-KCPE-795-TAR, Direct Testimony of Michael Deupree, at page 35-36.

program. If KCPL does not utilize the program, then no economic benefit is achieved. Without any explanation or analysis, Staff has simply accepted the 16.33 EO RIM score presented by KCPL, without questioning the dramatic RIM score changes.

Similar to the EO program, Staff's witnesses in the 795 Docket expressed concern regarding the ramping down of KCPL's MPower program. In the 795 Docket, KCPL indicated that its decision to place a moratorium on new MPower contracts was "driven by the fact that the slowing economy had greatly reduced electric demand, and therefore had reduced the need to procure additional peaking capacity."⁸ Staff witness Andy Fry later opined that KCPL is not utilizing its MPower program effectively. Specifically, Mr. Fry stated that "(i)t would appear that the surplus curtailable load at peak times could be utilized more as a resource. It would seem in the customers' best interest to curtail load at these peaking moments, rather than engaging peaking plants, with potentially high-cost fuel sources, which is essentially the underlying concept of the MPower program."⁹ Yet, despite Staff's concerns expressed in the 795 Docket, and its acknowledgment that KCPL's application in this docket will "essentially result in the complete discontinuation of the MPower program"¹⁰, Staff simply accepts the proposal presented by KCPL without any analysis of the MPower program or explanation for its acceptance.

B. Energy Optimizer and MPower Programs

Demand response ("DR") programs – like KCPL's EO and MPower – shed load during peak conditions, when market rates are typically highest. In this application, as well as in the 795 Docket, KCPL has proposed significantly ramping down these

⁸ KCPL response to Staff DR No. 32 issued in 10-KCPE-795-TAR.

⁹ KCC Docket No. 10-KCPE-795-TAR, Direct Testimony of Andy Fry, at page 11.

¹⁰ Staff Report and Recommendations, at page 7.

programs, effectively discontinuing them all together. It is unclear from KCPL's application if it is reducing participation in the EO and MPower programs because KCPL no longer needs to procure additional peak capacity or because there are no financial incentives for KCPL to "economically curtail because the consumer receives all the potential benefit."¹¹

To date KCPL has spent over \$13 million¹² on its EO and MPower programs, and proposes to spend another \$4.8 on the programs during the next five years. KCPL is receiving dollar-for-dollar recovery from its customers for the \$13 million it has spent on the EO and MPower programs, and now it wants approval to spend and collect another \$4.8 million. That is almost \$18 million of consumer's money spent for programs that, according to Staff's most recent analysis in the 795 Docket, may not be delivering enough system benefits to justify the expenses.

The Commission must now consider whether it makes economic sense to continue asking consumers to pay for these programs. If the Commission determines that the EO and MPower programs are economic and have benefits to consumers, then the Commission should include language in its order requiring KCPL to utilize these programs, as they are the least-cost, most-efficient way to serve customers needs. If the EO and MPower programs are deemed to be economic, then KCPL has no defensible argument that it should not use the programs that its customers have paid for.

However, if the Commission determines that the EO and MPower programs are not economic and do not have a benefit to consumers, then KCPL has wasted over \$13 million of consumer money. If KCPL is choosing to effectively end the EO and MPower

¹¹ KCC Docket No. 10-KCPE-795-TAR, Direct Testimony of Andy Fry, at page 9.

¹² EO through 2009 = \$7,825,993 in 2010 = \$980,069; MPower through 2009 = \$2,738,736 in 2010 \$1,574,278

programs because it no longer needs additional peak capacity or simply because it doesn't want to utilize these least cost resources any more – the result is the same: KCPL has wasted over \$13 million of consumers money. If these programs are not economic and do not provide a benefit to consumers, then the Commission should order KCPL to refund to its customers the amounts paid to support the EO and MPower programs.

C. General Investigation Docket

CURB disagrees with Staff's recommendation that the Commission open a new generic investigation docket to address difficulties arising from the 08-GIMX-441-GIV ("441 Docket") and the 442 Dockets. Staff's recommendation is based on the purported difficulty in applying the policy decisions made in Commission's 441 and 442 orders, "in the wake of KCP&L's withdraw in the 795 Docket." Staff is correct that KCPL's withdraw of its application in the 795 Docket was related to a myriad of differing opinions by opposing parties. However, Staff's report and recommendations in this proceeding fails to acknowledge that many of the contested issues in KCPL's 795 Docket pertained to cost-recovery issues and performance-incentive mechanisms – neither of which are contested issues in this proceeding.

CURB strongly opposes Staff's recommendation that the Commission open a general investigation docket to address energy efficiency issues. During the past five years, the Commission has opened and closed three different general investigations on energy-efficiency issues.¹³ These general investigation dockets each involved as many as sixteen parties, and some included several days of workshops, collaboratives, and panels hosted by national energy-efficiency experts. These general investigations culminated in

¹³ 07-GIMX-247-GIV, 08-GIMX-441-GIV, 08-GIMX-442-GIV.

the Commission's orders in the 441 and 442 Dockets in 2008 and 2009, respectively. Since those orders were issued, there have been at least five energy-efficiency applications made by different utility companies.¹⁴ In each of these applications, Staff was able to interpret and apply the Commission's 441 and 442 policy goals and directives without the need for further lengthy investigation.

Similar to Staff, CURB and other parties have also been able to interpret and apply the Commission's 441 and 442 orders to utility applications without requesting new general investigation dockets. In fact, in many of the issues and programs presented in utility applications, CURB and Staff offered similar interpretations of the Commission's rulings in the 441 and 442. The notable exception was in Docket No. 10-WSEE-775-TAR, when Staff reversed its previous positions on the recovery of lost revenues, in its analysis of Westar's Simple Savings program. The Commission should deny Staff's request to open a new docket investigating the changing realities of energy-efficiency, because seeking ways to iron out disagreements between parties in the 441 and 442 dockets in a general investigation is a waste of time and resources.

D. CURB's Recommendations

- (1) The Commission should require its Staff to perform an independent cost-benefit analysis of KCPL's proposed EO and MPower programs to determine whether the proposed programs are cost-effective;
- (2) If the Commission determines that KCPL's EO and MPower programs are cost-effective and offer benefits to consumers, then in its order approving

¹⁴ 10-KGSG-421-TAR, 10-EPDE-497-TAR, 10-BHCG-639-TAR, 10-WSEE-775-TAR, 10-KCPE-795-TAR.

the programs, the Commission should require KCPL to utilize these programs, as they provide the most-efficient, least-cost ways of serving its customer's needs;

- (3) If the Commission determines that KCPL's EO and MPower programs are not cost-effective and do not offer benefits to consumers, then the Commission should deny KCPL's application to make these programs permanent and require KCPL to issue a refund of the costs paid to support the programs;
- (4) The Commission should deny Staff's request to open a new generic investigation to identify and resolve specific difficulties concerning energy efficiency policies.

Respectfully submitted,



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CERTIFICATE OF SERVICE

11-KCPE-780-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, electronic service, or hand-delivered this 31st day of October, 2011, to the following:

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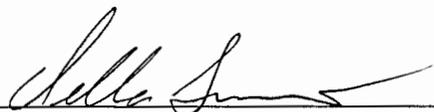
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