

BEFORE THE STATE CORPORATION COMMISSION 'JUN 01 2012
OF THE STATE OF KANSAS

In the Matter of the Application by)
Kansas City Power & Light Company)
for a Waiver Regarding the Kansas)
Renewable Energy Standards Act for 2012)

by
State Corporation Commission
of Kansas

Docket No. 12-KCPE-862-MIS

APPLICATION

COMES NOW Kansas City Power & Light Company ("KCP&L") and files this Application for an order from the Kansas Corporation Commission ("Commission") allowing KCP&L until December 31, 2012 to satisfy the requirements of the *Kansas Renewable Energy Standards Act*, K.S.A. 66-1256, *et seq.* ("RES Act") and the *Electric Utility Renewable Energy Standards*, K.A.R. 82-16-1, *et seq.* ("RES Rules") for calendar year 2012. In the alternative, KCP&L seeks an order waiving any potential penalty associated with failure to comply with the RES Act for calendar year 2012 so long as KCP&L complies no later than December 31, 2012. In support of this Application, KCP&L states:

1. KCP&L is a vertically integrated electric public utility company under the jurisdiction of the Commission that is engaged in the generation, transmission, distribution and sale of electric energy to the public within the meaning of K.S.A. 66-104, in legally designated areas of Kansas. KCP&L holds a Certificate of Convenience and Authority issued by this Commission, authorizing KCP&L to engage in such utility business. KCP&L has previously filed with the Commission certified copies of its Articles of Incorporation under which it was organized, and its Certificate of Registration as a Foreign Corporation authorized to do business in Kansas, and all amendments thereto and restatements thereof, and the same are incorporated herein by reference.

2. In addition to signatory counsel, communications and correspondence in regard to this Application should be addressed to:

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Applicable Standards

The RES Act

3. The RES Act imposes a portfolio requirement on all affected Kansas utilities, including KCP&L, to “generate or purchase electricity generated from renewable energy resources or purchase renewable energy credits” that constitute “[n]ot less than 10% of the affected utility’s peak demand for calendar years 2011 through 2015, based on the average demand of the prior three years of each year’s requirement.” K.S.A. 66-1258(a)(1). This requirement grows to 15% starting in 2016 and 20% starting in 2020. *See* K.S.A. 66-1258(a)(2) and (3). It also states “[r]enewable energy credits may only be used to meet a portion of portfolio requirements for the years 2011, 2016 and 2020, unless otherwise allowed by the commission.” K.S.A. 66-1258(a). Additionally, “[t]he capacity of all net metering systems interconnected with the affected utilities under the net metering and easy connection act in K.S.A. 2009 Supp. 66-1263 *et seq.*, and amendments thereto, shall count toward compliance.” K.S.A. 66-1258(b). Each megawatt of “eligible capacity in Kansas installed after January 1, 2000, shall count as 1.10 megawatts for purposes of compliance.” K.S.A. 66-1258(c).

4. The RES Act gives the Commission the authority to assess penalties to affected utilities that fail to comply with the requirements of the RES Act. *See* K.S.A. 66-1261. However, “for the calendar years 2011 and 2012, the commission is not required to assess penalties if the affected utility can demonstrate it made a good faith effort to comply with the portfolio standards requirement.” K.S.A. 66-1261(b). “In imposing penalties, the commission shall have discretion to consider mitigating circumstances.” K.S.A. 66-1261(b).

The RES Rules

5. The RES Rules require utilities to meet the portfolio requirement in the RES Act “by maintaining a portfolio of renewable capacity from generation, purchased energy, RECs or net metering systems.” K.A.R. 82-16-2(a). The RES Rules also impose certain reporting requirements on affected utilities, including KCP&L, based on renewable capacity in place as of July 1 of each year. *See* K.A.R. 82-16-2(b).

6. The RES Rules also set forth administrative penalties which the Commission may impose on affected utilities and provide a standard minimum penalty equal to two times the market value of sufficient RECs to have met the portfolio requirement. *See* K.A.R. 82-16-3(a). The Commission, however, has discretion on whether and how much of a penalty might apply “based on consideration of the relevant facts including the following, in addition to evidence of good faith efforts to comply or mitigating circumstances: (1) The reasons for noncompliance; (2) the degree of noncompliance; (3) plans to achieve compliance; (4) the impact of noncompliance on utility costs and revenues; and (5) the impact of noncompliance on the environment.” K.A.R. 82-16-3(b).

7. The RES Rules permit the Commission to allow affected utilities to use RECs to meet the portfolio requirements of the RES Act, K.S.A. 66-1258, for good cause shown. See K.A.R. 82-16-2(b)(7).

KCP&L’s Renewable Generation Portfolio

8. Currently, KCP&L owns 148.5 MW of installed capacity from renewable energy sources to be shared by both its Kansas and Missouri jurisdictions. The renewable resource is wind generation from the Spearville Wind Energy Facility located in Ford County, Kansas. Spearville 1 has 100.5 MW of installed capacity that was placed into service in 2006 and Spearville 2 has 48 MW of installed capacity that went in service in 2010. In addition, KCP&L Kansas customers have installed 108.5 kW (0.01085 MW) of wind and photovoltaic capacity under the *Net Metering and Easy Connection Act*.¹

TABLE 1: KCP&L’s Existing Renewable Generation Portfolio

| Name of Generation Facility | Owned or PPA | Type of Resource | Year Placed in Service | Nameplate Capacity (MW) |
|------------------------------------|---------------------|-------------------------|-------------------------------|--------------------------------|
| Spearville 1 | Owned | Wind | 2006 | 100.5 |
| Spearville 2 | Owned | Wind | 2010 | 48 |
| Net Metering | Customer | Various | Various | 0.01085 |
| TOTAL | | | | 148.51 |

9. In 2010, KCP&L issued requests for proposals (“RFPs”) to secure additional renewable (wind) energy resources. As a result, KCP&L entered into a 20-year purchase power

¹ Net Metering capacity as of December 31, 2011. See KCP&L’s 2011 Net Metering Annual Report filed in Docket No. 12-KCPE-665-CPL on March 1, 2012.

agreement (“PPA”) for 131.1 MW of wind energy from a site known as Cimarron II located in Gray County, Kansas. As of this filing, all of the turbines for the Cimarron II project are built and commissioning is in process. All 131.1 MW currently are expected to be in service in early June 2012, prior to the Kansas RES Rules reporting requirement date of July 1, 2012.

10. In addition to the Cimarron II project, KCP&L also executed a 20-year PPA for an additional 100.8 MW of wind energy from Spearville 3. This site is adjacent to KCP&L’s existing Spearville Wind Energy Facility located in Ford County, Kansas. Spearville 3 is scheduled to be on line no later than December 31, 2012 but is tracking ahead of schedule and currently is expected to be in service as early as September or October, 2012.

11. KCP&L also executed a 10-year PPA with Central Nebraska Public Power Irrigation District (“CNPPID”) for up to 63 MW of hydro power beginning January 1, 2014.² The three hydro facilities identified in the agreement, Jeffrey, Johnson No. 1 (“J-1”) and Johnson No. 2 (“J-2”), are located along the CNPPID’s irrigation supply canal located in Nebraska. These facilities are operational but currently are contracted to another party. As noted above, KCP&L’s 10-year PPA with CNPPID for this hydro capacity begins January 1, 2014.

² The CNPPID PPA provides all hydro generation from these three facilities up to 63 MW.

TABLE 2: KCP&L's Future Renewable Generation Portfolio

| Name of Generation Facility | Owned or PPA | Type of Resource | Year Placed in Service | Nameplate Capacity (MW) |
|------------------------------------|---------------------|-------------------------|-------------------------------|--------------------------------|
| Spearville 1 | Owned | Wind | 2006 | 100.5 |
| Spearville 2 | Owned | Wind | 2010 | 48 |
| Spearville 3 | PPA | Wind | 2012 | 100.8 |
| Cimarron II | PPA | Wind | 2012 | 131.1 |
| Net Metering | Customer | Various | Various | 0.01085 |
| TOTAL 2012 | | | | 380.4 |
| J-1, J-2 and Jeffrey | PPA | Hydro | 2014 | Up to 63 |

KCP&L 2011 RES Act Compliance Components

12. On August 1, 2011, KCP&L submitted to the Commission Staff its first annual report on compliance with the Kansas RES Act as required by K.A.R. 82-16-2(b). For 2011, KCP&L's compliance requirement was 163.6 MW of renewable capacity for its Kansas jurisdiction based upon 10% of KCP&L's three-year average Kansas retail peak demand for calendar years 2008, 2009 and 2010 of 1636 MW.³ The RES Act allows RECs to be used for compliance in the so-called step years: 2011, 2016 and 2020. These are the years in which the capacity requirement steps up to a higher percentage: 10 percent, 15 percent and 20 percent, respectively. In other compliance years, affected utilities may use RECs for compliance only with approval from the Commission to do so. KCP&L met just over half of its Kansas

³ KCP&L Kansas Gross Retail Peaks: 2008 @ 1628 MW, 2009 @ 1614 MW, and 2010 @ 1666 MW.

renewable capacity requirements for step year 2011 with a combination of banked self-generated RECs⁴ and RECs purchased in the marketplace.

13. As reported in its 2011 Annual Renewable Energy Standard Report submitted to the Commission Staff on August 1, 2011, KCP&L met the 2011 Kansas RES Act requirement of 163.6 MW with the following renewable capacity components:

TABLE 3: 2011 Kansas RES Act Compliance Components

| Source | Capacity Allocated to Kansas (MW) | Kansas Capacity with 1.1 Multiplier (MW)⁽¹⁾ |
|---|--|---|
| KCP&L Owned Capacity: | 63.5 MW | 69.8 MW |
| 2009 KCP&L-generated RECs (69,367 retired): ⁽²⁾ | 19.7 MW | 21.7 MW |
| 2010 KCP&L-generated RECs (155,251 retired): ⁽³⁾ | 44.2 MW | 48.6 MW |
| REC purchases (78,000 from EDE): | | 24.2 MW |
| Net Metering: ⁽⁴⁾ | | 0.09 MW |
| TOTAL: | 127.3 MW | 164.3 MW |

⁽¹⁾ All capacity and self-generated RECs include the effect of the 1.1 multiplier except Net Metering. According to the RES Act, net metering capacity also qualifies for the 1.1 multiplier although KCP&L did not apply the multiplier to the net metering capacity in its Kansas Renewable Energy Standard 2011 Annual Report.

⁽²⁾ Banked from July 1, 2009 through December 31, 2009 and converted to equivalent MWs pursuant to RES Rules.

⁽³⁾ Converted to equivalent MWs pursuant to RES Rules.

⁽⁴⁾ Net Metering capacity as of June 30, 2011.

⁴ RECs associated with generation from the Spearville 1 and 2 wind turbines were banked beginning July 1, 2009 (two years prior to the reporting date) and used for compliance with the Kansas RES Act in 2011.

KCP&L 2012 RES Act Compliance Components

14. In order to meet the requirements of the RES Act and the RES Rules for calendar year 2012 without the use of RECs, KCP&L will need net renewable generation capacity of approximately 167.2 MW for its Kansas jurisdiction. This number is equal to 10% of KCP&L's three-year average Kansas retail peak demand for calendar years 2009, 2010, and 2011 of 1672 MW.⁵ As the Company will be using Kansas capacity to meet its 2012 requirements, it will need 152 MW of Kansas renewable generation capacity which, when grossed up by the 1.1 multiplier, provides the required 167.2 MW.

15. As stated above, KCP&L's current owned net renewable generation capacity today is 148.5 MW. This capacity is shared between the Company's Kansas and Missouri jurisdictions. Assuming a Kansas allocation factor of approximately 43 percent for 2012, approximately 63 MW of this capacity would be allocated to the Company's Kansas jurisdiction. KCP&L then needs approximately 89 MW of additional renewable capacity located in Kansas to meet the renewable energy standard requirement for calendar year 2012, which, when combined with a 63 MW Kansas allocation of existing renewable capacity resources and adjusted by the 1.1 multiplier, would be the equivalent to the required 167.2 MW.

16. As can be seen from Table 2 above, KCP&L has a total of 231.9 MW of wind capacity coming on-line during calendar year 2012. Allocating approximately 43 percent or roughly 100 MW of this new renewable capacity to the Company's Kansas jurisdiction assures that, by the end of calendar year 2012, KCP&L will have sufficient renewable capacity to meet the 2012 requirement level.

⁵ KCP&L Kansas Gross Retail Peaks: 2009 @ 1614 MW, 2010 @ 1666 MW, and 2011 @ 1735 MW.

TABLE 4: 2012 Kansas RES Act Compliance Components

| Source | Estimated Capacity Allocated to Kansas (MW) | Kansas Capacity with 1.1 Multiplier (MW)⁽¹⁾ |
|--------------------------------------|--|---|
| KCP&L Owned Capacity: | 63.9 MW | 70.3 MW |
| PPA Capacity (In Service June 2012): | 56.4 MW | 62.0 MW |
| PPA Capacity (In Service Fall 2012): | 43.3 MW | 47.6 MW |
| Net Metering: ⁽²⁾ | 0.01085 MW | 0.01194 MW |
| TOTAL CAPACITY YEAR-END 2012 | 163.6 MW | 179.9 MW |

⁽¹⁾ All numbers include effect of the 1.1 multiplier.

⁽²⁾ Net Metering capacity as of December 31, 2011.

Request for Waiver

16. As demonstrated above, KCP&L has made good faith efforts to meet its Kansas RES Act and RES Rules compliance obligations for calendar year 2012. Notably, KCP&L has executed long-term PPAs for additional wind capacity from projects located in Kansas that will be operational during calendar year 2012. As stated above, Cimarron II will be fully operational in June 2012 and Spearville 3 is expected to be operational in the Fall of 2012, just a few months after the RES Rule reporting date of July 1, 2012. KCP&L will then have a total of 380.4 MW of wind generation capacity located in Kansas.⁶ Additionally, after the CNPPID PPA begins in 2014, KCP&L will not need additional renewable capacity until 2016 when the RES Act requirement changes to 15% of peak demand.

⁶ This does not include another 60 MW of wind generation from the Gray County Wind Farm located in Kansas that currently serves KCP&L's Greater Missouri Operations ("GMO") service territory and an additional 98.9 MW for GMO scheduled to come on line during 2012 from the Ensign Wind Farm, also located in Kansas. GMO has a PPA for each of these facilities. By the end of 2012, KCP&L will have a total of 539.3 MW of wind generation located in Kansas serving its KCP&L-KS, KCP&L-MO, and GMO jurisdictions.

17. Because KCP&L will meet its RES requirement *during* calendar year 2012, KCP&L respectfully requests a Commission order allowing until December 31, 2012 to satisfy the requirements of the Kansas RES Act and RES Rules for calendar year 2012. Notably, the RES Act does not clearly define the point in time during a calendar year when a utility must have renewable generation capacity in place in order to meet the requirements for that particular calendar year. This lack of clarity is continued by the RES Rules use of a reporting date of July 1 each year without clearly defining a date by which a utility must comply with the RES Act each year. While KCP&L will have sufficient renewable capacity in service to meet its 2012 obligations within calendar year 2012, because of the ambiguity in the RES Act and the RES Rules, KCP&L is seeking the Commission's permission to use the entire calendar year to meet its 2012 obligations. In other words, as demonstrated above, KCP&L will have acquired sufficient renewable capacity to meet its 2012 RES Act obligations during calendar year 2012, but not prior to the July 1, 2012 reporting date.

18. In the alternative, if the Commission is unable or unwilling to grant KCP&L permission to use the entire calendar year to meet its 2012 RES Act obligations, KCP&L seeks an order waiving any potential penalty associated with failure to comply with the RES Act for calendar year 2012 so long as KCP&L complies no later than December 31, 2012.

19. In support of this alternative request, KCP&L notes that the RES Act provides the Commission with the authority to waive penalties for 2011 and 2012 compliance if the affected utility can demonstrate a good faith effort to comply with the portfolio standards requirement. Additionally, the Commission is provided discretion in any year to consider mitigating circumstances in determining whether to assess penalties on an affected utility. The RES Rules

provide for consideration of five relevant factors in the determination of whether and how much penalty to assess an affected utility. KCP&L will address each of these in turn.

(1) The reasons for noncompliance. First, it is not clear from a reading of the RES Act or the RES Rules whether KCP&L's situation in fact places it in a position of noncompliance. That question aside, KCP&L requested RFPs in 2010 for wind generation capacity to be on line by June 30, 2012. As a result, KCP&L received multiple bids with varying project completion dates. Some bidders could meet the June 30, 2012 date and some could not. KCP&L chose the best wind projects for its portfolio. Unfortunately, one of those projects will not be completed until Fall 2012. KCP&L explained in Section 2.7 its Renewable Energy Standard 2011 Annual Report submitted to Commission Staff on August 1, 2011 "The primary reason why KCP&L may be unable to acquire other (non-REC) renewable energy resources to meet its 2012 requirements is potential timing for completion of available new wind projects -- it is anticipated most will be completed after July 1, 2012 but before December 31, 2012 when the federal PTC expires."⁷

(2) The degree of noncompliance. Assuming that the July 1 reporting requirement date under the RES Rules is also considered to be the compliance date requirement, then KCP&L misses such date by only a couple of months. Considering the time it takes to develop and issue an RFP, evaluate alternative bids, negotiate contracts, secure appropriate equipment, and plan, staff and construct wind generation facilities, a few months should be considered a minor exception.

(3) Plans to achieve compliance. KCP&L set out to secure sufficient timely renewable energy sources with the issuance of an RFP. Additionally, KCP&L has already secured

⁷ KCP&L Renewable Energy Standard 2011 Annual Report, Section 2.7, 82-16-2(b)(7), pp. 8-9, Aug. 1, 2011.

sufficient renewable energy resources to meet its obligations through 2016 including a significant portion of the 2016 step-up requirements.

(4) The impact of noncompliance on utility costs and revenues. Because KCP&L will have sufficient renewable resources in place during 2012, only a few months after the July 1 reporting requirement date, there would be no significant impact on the Company's costs or revenues.

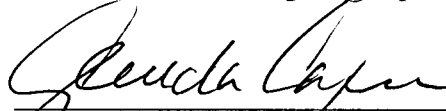
(5) The impact of noncompliance on the environment. Because KCP&L will have sufficient renewable resources in place during 2012, only a few months after the July 1 reporting requirement date, there would be no significant impact on the environment.

20. The RES Act allows affected utilities to use RECs to meet the requirements of the statute in years other than 2011, 2016 and 2020 if "allowed by the commission." K.S.A. 66-1258(a). KCP&L estimates that a purchase sufficient to result in compliance using RECs would cost in the range of \$150,000 to \$300,000. Although, as a last resort, KCP&L could request approval from the Commission to use RECs to satisfy the Kansas RES requirements for 2012, this remedy seems unreasonable given the fact that KCP&L will have sufficient renewable resources in place during calendar year 2012, just months following such a purchase. Instead, KCP&L respectfully submits good cause exists for the Commission to provide the requested waiver based on KCP&L's good faith efforts to meet its compliance obligations during calendar year 2012. As discussed above, KCP&L has acquired an additional 231.9 MW from wind that will be available during calendar year 2012 and an additional 63 MW from hydro facilities that will be available in 2014 to comply with the RES Act.

WHEREFORE, KCP&L respectfully requests that the Commission issue an order either (a) granting KCP&L a waiver through December 31, 2012 to satisfy the requirements of the RES Act for calendar year 2012 without penalty; or, in the event the Commission does not believe that it has the authority to grant KCP&L such additional time to comply with the RES Act or is unwilling to do so, or (b) granting KCP&L a waiver from penalty associated with failure to comply with the RES Act for calendar year 2012 so long as KCP&L complies no later than December 31, 2012, as proposed herein.

Respectfully submitted,

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