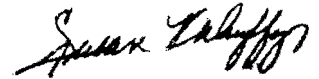


THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of Kansas )  
City Power & Light Company to Modify Its ) Docket No. 10-KCPE-415-RTS  
Tariffs to Continue the Implementation of Its )  
Regulatory Plan. )

STATE CORPORATION COMMISSION

JUL 06 2010



**CURB AND STAFF'S JOINT MOTION TO  
STRIKE CROSS-ANSWERING TESTIMONY OF  
KANSAS GAS SERVICE WITNESSES RONALD WHITE AND  
DAVID DITTEMORE AND MOTION FOR EXPEDITED TREATMENT**

COME NOW, the Citizens' Utility Ratepayer Board ("CURB"), and the Staff of the State Corporation Commission of the State of Kansas ("Staff" and "KCC" or "Commission" respectively), and file this joint motion to strike the Cross-Answering Testimony of Dr. Ronald White and David Dittemore, prefiled with the Commission on July 2, 2010, on behalf of Kansas Gas Service ("KGS").

In support of their joint motion, CURB and Staff state as follows:

1. On January 8, 2010, KGS filed a Petition for Intervention in this docket, seeking intervention for the following specific reason:

To permit Kansas Gas Service to present evidence and argument concerning the special rates KCP&L has in place for space and water heating, Kansas Gas Service seeks to intervene to be able to highlight the negative impact these rate structures have on customers who use natural gas for space and water heating and require them to pay higher electric rates for electric service during the colder parts of the year.<sup>1</sup>

2. On February 19, 2010, the Kansas Corporation Commission ("Commission") granted intervention to KGS, specifically stating:

Because rate design issues will be part of this docket, Kansas Gas Service seeks to intervene to be able to highlight the negative impact these rate structures have on customers who use natural gas for space and water heating and require them to pay higher electric rates for electric service during the colder parts of the year. (citations

<sup>1</sup> KGS Petition for Intervention, January 8, 2010, ¶ 6 (emphasis added).

omitted). Additionally, it asserts that as an electric customer and a provider of gas service to space heating customers who also use electricity, Kansas Gas Service's legal rights, duties, privileges, immunities, or other legal interests will be substantially affected by this proceeding as demonstrated above.<sup>2</sup>

3. On July 2, 2010, KGS filed the Cross-Answering Testimony of Dr. Ronald White and David Dittmore. The Cross-Answering Testimony of Dr. Ronald White does not address KCPL's rate design in any respect, but instead addresses how third-party reimbursements should be recorded and treated in estimating net salvage rates in a comprehensive depreciations study.<sup>3</sup> The Cross-Answering Testimony of David Dittmore likewise fails to address KCPL's rate design, but instead addresses rate base adjustments made by Staff and CURB related to the removal of fuel and purchased power from the computation of cash working capital.<sup>4</sup>

4. Neither Dr. White nor Mr. Dittmore offered direct testimony on depreciation or rate base issues. To the contrary, the direct testimony prefiled by KGS witnesses David Dittmore and Paul Raab addressed only KCPL's space and water heating tariffs,<sup>5</sup> consistent with the reasons cited by KGS in its Petition for Intervention.

5. The Commission has authority to limit KGS' intervention in this docket through K.S.A. 77-521, parroted in K.A.R. 82-1-225, which provides in relevant part:

(c) If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation, either at the time that intervention is granted or at any subsequent time.

The Conditions may include the following:

---

<sup>2</sup> Order Granting Intervention for Danisco USA, Inc. and Kansas Gas Service, February 19, 2010, ¶ 5 (emphasis added).

<sup>3</sup> Cross-Answering Testimony of Dr. Ronald White, July 2, 2010, p. 2, lines 26-29, p. 3, line 1.

<sup>4</sup> Cross-Answering Testimony of David Dittmore, July 2, 2010, p. 1, lines 9-14.

<sup>5</sup> Direct Testimony of David Dittmore, June 15, 2010, p. 1, lines 20-23, p. 2, lines 1-8; Direct Testimony of Paul Raab, p. 2, lines 16-23, p. 3, lines 1-2.

- (1) Limiting the Intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
- (2) limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings.

6. The Kansas Court of Appeals has interpreted the purpose of K.S.A. 77-521(c) to be the following:

Subsection (c), authorizing the presiding officer to impose conditions upon the intervenor's participation in the proceedings, is intended to permit the presiding officer to facilitate reasonable input by intervenors, without subjecting the proceedings to unreasonably burdensome or repetitious presentations by intervenors. (CURB v. KCC, 24 Kan. App. 2d 63, 69, rev. denied, 262 Kan. 959 (1997); citing Comment, 1981 Uniform State Administrative Procedure Act § 4-209, 15 U.L.A. 84 (1990).

7. CURB did not oppose the Petition for Intervention filed by KGS because it expressly stated its only intent was to present evidence and argument concerning the special rates KCPL has for space and water heating. Had KGS expressed its intent to participate in depreciation or rate base issues, CURB would have opposed the Petition for Intervention on the grounds KGS lacked standing to participate in depreciation or rate base issues and that the participation by KGS would unduly impair the orderly and prompt conduct of the proceedings.

8. Likewise, Staff did not oppose the Petition for Intervention for the same reasons stated for CURB and supports the underlying premise for CURB's opposition.

9. The procedural schedule agreed to by the parties to this docket was made in light of, and in reliance on, the representations made by KGS in its Petition for Intervention. KGS should not be allowed to present evidence and argument beyond the "evidence and argument concerning the special rates KCP&L has in place for space and water heating..." that KGS represented in its Petition

for Intervention it intended to offer to “highlight the negative impact these rate structures have on customers who use natural gas for space and water heating...”<sup>6</sup>

10. The technical hearing in this docket is scheduled for August 16<sup>th</sup> through September 3<sup>rd</sup>. The issues to be tried in this case are complex and will take the full three weeks scheduled. Participation by KGS in issues beyond the rate design issues cited in support of its Petition for Intervention will lengthen the proceedings beyond the three weeks currently scheduled.

11. CURB, Staff, and other parties will be denied any reasonable opportunity to respond or rebut the Cross-Answering Testimony of KGS witnesses White and Dittimore. The procedural schedule in this docket has already been extended and would require yet another extension in the event the Commission allows the cross-answering testimony of these KGS witnesses on issues unrelated to the rate design issue relied upon by KGS in obtaining intervention. Due process would require an additional extension if this unanticipated testimony is not stricken from the record.

12. This docket is not a general investigation where all utilities are entitled to intervene and submit testimony and evidence on general policy issues, but is instead an application filed by KCPL to increase its rates. The cross-answering testimony submitted by KGS on issues unrelated to the rate design issue asserted as the sole basis for intervention by KGS will impair the orderly and prompt conduct of the proceedings, deny the parties the opportunity to respond to the cross-answering testimony, and unnecessarily extend the time required for the technical hearings scheduled for August 16<sup>th</sup> through September 3<sup>rd</sup>.

13. KGS should not be allowed to use this cross-answering testimony as a basis for cross-examining witnesses in KCP&L’s evidentiary hearing on issues relating solely to KCP&L.

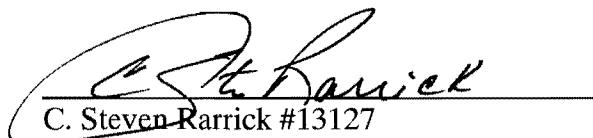
---

<sup>6</sup> KGS Petition for Intervention, January 8, 2010, ¶ 6.

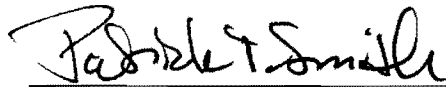
Allowing KGS to do this would amount to an open invitation for utilities to intervene in all rate cases on any issue they wish to address outside of their own rate case or a general investigation. In other words, KGS should not be allowed to cross-examine Staff's witnesses, CURB's witnesses, or any other witness on issues completely unrelated to KGS such as how third-party reimbursements should be recorded and treated in estimating net salvage rates in a comprehensive depreciations study, or rate base adjustments made by Staff and CURB related to the removal of fuel and purchased power from the computation of cash working capital.

14. Wherefore, CURB and Staff respectfully request the Commission issue and order granting CURB and Staff's joint motion to strike the Cross-Answering Testimony of Dr. Ronald White and David Dittmore. Given the short time prior to the commencement of the evidentiary hearing on August 16, 2010, CURB also requests that the Commission enter an order on this matter as expeditiously as possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Steven Rarrick", is written over a horizontal line.

C. Steven Rarrick #13127  
Citizens' Utility Ratepayer Board  
1500 SW Arrowhead Road  
Topeka, KS 66604  
(785) 271-3200  
(785) 271-3116 Fax



---

W. Thomas Stratton, Jr., # 11916  
Chief Litigation Counsel  
Patrick T. Smith, # 18275  
Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd.  
Topeka, Kansas 66604-4027  
Phone: (785) 271-3196  
Fax: (785) 271-3167  
p.smith@kcc.ks.gov


ATTORNEYS FOR STAFF

**VERIFICATION**

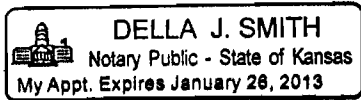
STATE OF KANSAS   )  
   )     ss:  
COUNTY OF SHAWNEE                                   )

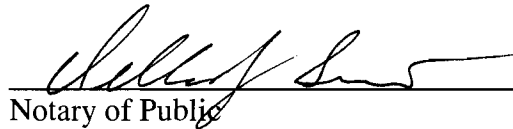
I, C. Steven Rarrick, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the Citizens’ Utility Ratepayer Board; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

  
C. Steven Rarrick

SUBSCRIBED AND SWORN to before me this 6<sup>th</sup> day of July, 2010.



  
Notary of Public

My Commission expires: 01-26-2013.

VERIFICATION

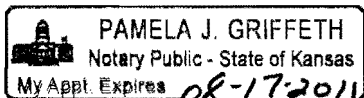
STATE OF KANSAS )  
 ) ss:  
COUNTY OF SHAWNEE )

I, Patrick T. Smith, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the Staff of the State Corporation Commission of the State of Kansas; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

  
Patrick T. Smith

SUBSCRIBED AND SWORN to before me this 6th day of July, 2010.



  
Notary of Public

My Commission expires: August 17, 2011



CERTIFICATE OF SERVICE

10-KCPE-415-RTS

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 6th day of July, 2010, to the following:

\* JAMES G. FLAHERTY, ATTORNEY  
ANDERSON & BYRD, L.L.P.  
216 SOUTH HICKORY  
PO BOX 17  
OTTAWA, KS 66067  
Fax: 785-242-1279  
jflaherty@andersonbyrd.com

JAMES R. WAERS, ATTORNEY  
BLAKE & UHLIG PA  
475 NEW BROTHERHOOD BLDG  
753 STATE AVE., STE. 475  
KANSAS CITY, KS 66101  
Fax: 913-321-2396  
jrw@blake-uhlig.com

JANE L. WILLIAMS, ATTORNEY  
BLAKE & UHLIG PA  
475 NEW BROTHERHOOD BLDG  
753 STATE AVE., STE. 475  
KANSAS CITY, KS 66101  
Fax: 913-321-2396  
jlw@blake-uhlig.com

\* GLENDA CAFER, ATTORNEY  
CAFER LAW OFFICE, L.L.C.  
3321 SW 6TH STREET  
TOPEKA, KS 66606  
Fax: 785-271-9993  
gcafer@sbcglobal.net

\* BLAKE MERTENS  
EMPIRE DISTRICT ELECTRIC COMPANY  
602 S JOPLIN AVE (64801)  
PO BOX 127  
JOPLIN, MO 64802  
Fax: 417-625-5169  
bmertens@empiredistrict.com

\* KELLY WALTERS, VICE PRESIDENT  
EMPIRE DISTRICT ELECTRIC COMPANY  
602 S JOPLIN AVE (64801)  
PO BOX 127  
JOPLIN, MO 64802  
Fax: 417-625-5173  
kwalters@empiredistrict.com

\* C. EDWARD PETERSON, ATTORNEY  
FINNEGAN CONRAD & PETERSON LC  
1209 PENNTOWER OFFICE CENTER  
3100 BROADWAY  
KANSAS CITY, MO 64111  
Fax: 816-756-0373  
epeters@fcplaw.com

DAVID WOODSMALL, ATTORNEY  
FINNEGAN CONRAD & PETERSON LC  
1209 PENNTOWER OFFICE CENTER  
3100 BROADWAY  
KANSAS CITY, MO 64111  
Fax: 816-756-0373  
dwoodsmall@fcplaw.com

DARRELL MCCUBBINS, BUSINESS MANAGER  
IBEW LOCAL UNION NO. 1464  
PO BOX 33443  
KANSAS CITY, MO 64120  
Fax: 816-483-4239  
local1464@aol.com

JERRY ARCHER, BUSINESS MANAGER  
IBEW LOCAL UNION NO. 1613  
6900 EXECUTIVE DR  
SUITE 180  
KANSAS CITY, MO 64120  
local1613@earthlink.net

BILL MCDANIEL, BUSINESS MANAGER  
IBEW LOCAL UNION NO. 412  
6200 CONNECTICUT  
SUITE 105  
KANSAS CITY, MO 64120  
Fax: 816-231-5515  
bmcdaniel412@msn.com

LEO SMITH, BOARD OF DIRECTORS  
INTERNATIONAL DARK SKY ASSOCIATION  
1060 MAPLETON AVENUE  
SUFFIELD, CT 06078  
leo@smith.net

CERTIFICATE OF SERVICE

10-KCPE-415-RTS

ROBERT WAGNER, PRESIDENT, BOARD OF DIRECTORS  
INTERNATIONAL DARK SKY ASSOCIATION  
9005 N CHATHAM AVENUE  
KANSAS CITY, MO 64154  
rwagner@eruces.com

\* CURTIS D. BLANC, SR. DIR. REG. AFFAIRS  
KANSAS CITY POWER & LIGHT COMPANY  
ONE KANSAS CITY PLACE  
1200 MAIN STREET (64105)  
P.O. BOX 418679  
KANSAS CITY, MO 64141-9679  
Fax: 816-556-2787  
curtis.blanc@kcpl.com

\* WILLIAM RIGGINS, GENERAL COUNSEL  
KANSAS CITY POWER & LIGHT COMPANY  
ONE KANSAS CITY PLACE  
1200 MAIN STREET (64105)  
P.O. BOX 418679  
KANSAS CITY, MO 64141-9679  
Fax: 816-556-2787  
bill.riggins@kcpl.com

\* VICKIE SCHATZ, CORPORATE COUNSEL  
KANSAS CITY POWER & LIGHT COMPANY  
ONE KANSAS CITY PLACE  
1200 MAIN STREET (64105)  
P.O. BOX 418679  
KANSAS CITY, MO 64141-9679  
Fax: 816-556-2992  
victoria.schatz@kcpl.com

\* MARY TURNER, DIRECTOR, REGULATORY AFFAIRS  
KANSAS CITY POWER & LIGHT COMPANY  
ONE KANSAS CITY PLACE  
1200 MAIN STREET (64105)  
P.O. BOX 418679  
KANSAS CITY, MO 64141-9679  
Fax: 816-556-2110  
mary.turner@kcpl.com

\* PATRICK T SMITH, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3167  
p.smith@kcc.ks.gov  
\*\*\*\* Hand Deliver \*\*\*\*

\* MATTHEW SPURGIN, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
m.spurgin@kcc.ks.gov  
\*\*\*\* Hand Deliver \*\*\*\*

\* W. THOMAS STRATTON, JR., CHIEF LITIGATION  
COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
t.stratton@kcc.ks.gov  
\*\*\*\* Hand Deliver \*\*\*\*

\* JOHN P. DECOURSEY, DIRECTOR, LAW  
KANSAS GAS SERVICE, A DIVISION OF ONEOK,  
INC.  
7421 W 129TH STREET STE 300 (66213)  
PO BOX 25957  
SHAWNEE MISSION, KS 66225-9835  
Fax: 913-319-8622  
jdecoursey@kgas.com

\* WALKER HENDRIX, DIR, REG LAW  
KANSAS GAS SERVICE, A DIVISION OF ONEOK,  
INC.  
7421 W 129TH STREET STE 300 (66213)  
PO BOX 25957  
SHAWNEE MISSION, KS 66225-9835  
Fax: 913-319-8622  
whendrix@oneok.com

\* JO SMITH, SR OFFICE SPECIALIST  
KANSAS GAS SERVICE, A DIVISION OF ONEOK,  
INC.  
7421 W 129TH STREET STE 300 (66213)  
PO BOX 25957  
SHAWNEE MISSION, KS 66225-9835  
Fax: 913-319-8622  
josmith@oneok.com

\* ANNE E. CALLENBACH, ATTORNEY  
POL SINELLI SHUGHART  
6201 COLLEGE BLVD  
SUITE 500  
OVERLAND PARK, KS 66211  
Fax: 913-451-6205  
acallenbach@polsinelli.com

CERTIFICATE OF SERVICE

10-KCPE-415-RTS

\* FRANK A. CARO, JR., ATTORNEY  
POL SINELLI SHUGHART  
6201 COLLEGE BLVD  
SUITE 500  
OVERLAND PARK, KS 66211  
Fax: 913-451-6205  
fcaro@polsinelli.com

\* JAMES P. ZAKOURA, ATTORNEY  
SMITHYMAN & ZAKOURA, CHTD.  
7400 W 110TH STREET  
SUITE 750  
OVERLAND PARK, KS 66210  
Fax: 913-661-9863  
jim@smizak-law.com

REID T. NELSON  
D/B/A ATTORNEY AT LAW  
3021 W 26TH STREET  
LAWRENCE, KS 66047  
rnelson@sbids.state.ks.us

\* ROGER W. STEINER, ATTORNEY  
SONNENSCHN NATH & ROSENTHAL LLP  
4520 MAIN STREET  
SUITE 1100  
KANSAS CITY, MO 64111  
Fax: 816-531-7545  
rsteiner@sonnenschein.com



\_\_\_\_\_  
Della Smith

\* Denotes those receiving the Confidential  
version